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The Origin and Progress of the Movement Toward Political Independence in Ireland Since 1932

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THE ORIGIN AND PROGRESS OF THE MOVEMENT
TOWARD POLITICAL INDEPENDENCE
IN IRELAND SINCE 1932

ROSE S. KELLY

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF ARTS
IN LOYOLA UNIVERSITY

THE ORIGIN AND PROGRESS OF THE MOVEMENT
TOWARD POLITICAL INDEPENDENCE
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INTRODUCTION

The present Government of the Irish Free State no sooner had taken power in 1932 than it came into conflict with the British Government over the question of the oath of allegiance to the English King and the payment of the land annuities. Retaliation by the British Government for abolition of the oath and retention of the annuities has resulted in three years of economic war which is not yet settled. It was thought by the English Government that the erection of a tariff wall against agricultural products of Ireland would quickly check the present Irish Government. Such a procedure has not been successful. The Irish Government likewise erected tariff walls and entered on a program of self-sufficiency. The basic issue, however, is the question of a republican status versus dominion status. It is a general opinion that the economic dispute could be settled easily if a decision could be arrived at in the political dispute.

The movement to cut all political and economic ties with the British Government has brought about a permanent cleavage in Irish society between the Celt, or the majority, and the Anglo-Irish. Both groups, however, desire the unity of Ireland which was destroyed in 1920 by an act of the British Parliament.

The Anglo-Irish believe unity can again be obtained by

remaining in the Commonwealth. Although wanting self-government, they do not desire, for racial and economic reasons, to be completely separated from the Empire. A Republic is still the goal of the Celt. The Treaty of 1921 and the Irish Constitution based on the Treaty stand in the way. The present Government has decided to amend the Treaty out of existence by unilateral action, and arrive at Republican status by abolishing all objectionable features standing in the way of complete sovereignty.

The leader of the Fianna Fail Government, Mr. Eamon de Valera, and his followers abstained from participation in the Government from 1922 to 1927 on account of the required oath, although they contested and won seats at every election during that time. From 1927 to 1932 De Valera was the leader of the opposition in the Dail Eireann (Chamber of Deputies). Mr. Cosgrave, formerly the President of the Executive Council, has now assumed the role of minority leader and represents the Anglo-Irish group.

The accusation of Treaty-breaking has brought a host of criticism for and against the Free State Government. The writer believes that a review of the facts and of the opinions held by all groups may lead to an understanding of the peaceful revolution that has taken place in Ireland in the

last three years. The revolution is not yet complete and the British Government alone can answer the question as to how the national aspirations of the Irish may be realized.

The present thesis is an attempt to trace the course of the newest Irish development from records of its progress and from a consultation of the various shades of opinion found in recent literature upon the subject.

CHAPTER 1

ORIGIN OF THE CONFLICT

On February 17, 1932 the Fianna Fail (Soldiers of Destiny) party succeeded in winning 72 seats out of 153 in Dail Eireann, the Chamber of Deputies, of the Irish Free State. Although not a majority of all votes, this toll, with the help of the Labour Party, gave Mr. Eamon de Valera an opportunity of becoming President of the Executive Council of the Irish Free State. In accordance with his election promise, he introduced in the Dail the Constitution (Removal of Oath) Bill on April 21, 1932. This reopened the whole question of the validity of the Anglo-Irish Treaty of 1921. A review of the period from 1916 to the present is necessary to understand the point of view of all parties concerned.

The proclamation of the Republic on Easter Sunday in 1916, known by its leaders to be doomed to failure, was followed by five years of negotiation and war which resulted in the Treaty. In the course of the war sixteen of the leaders were executed, but the British Government spared the life of De Valera, fearing that his right to claim American citizenship would prejudice their cause in America at the time. Following the outbreak David Lloyd George summoned a Convention, the purpose of which was to draw up a Constitution for Ireland. Only the North sent representatives. An agreement was reached by them

in April of 1918, but as the Sinn Fein imposed a boycott on those who adopted it, and as the Ulster Unionists dissented, it could not be considered representative of all Ireland. A second abortive Convention met at the same time in the Dublin Mansion House and drafted a Constitution.

The agreement reached by the first Convention called for a general election in 1918 for members to London. The Sinn Fein entered the contest but publicly proclaimed they would not enter the London Parliament if elected. They won 73 seats out of a total of 105. Claiming to have a mandate from the people, those who were not in jail organized an Irish Parliament. The Unionist representatives of Ulster refused to attend. Their first formal meeting was held on January 21, 1919. This first Dail promulgated a provisional Constitution and proclaimed again a Declaration of Independence. A ministry was elected, and developed an internal administration which was partially successful. The ministry appealed to the Peace Conference, hoping that England's pledge to recognize the right of self-determination for small nations would bring it recognition. The appeal was without success. The first Dail sat from January, 1919, to May, 1921. The new Constitution provided for an Executive Council with a President. De Valera was elected to this office. Lloyd George, ignoring the legality of the first Dail, was

unalterably opposed to complete independence. He sponsored the Government of Ireland Act, 1920¹, in the British Parliament, which for the first time legally partitioned the country. The Act provided for two Parliaments, one each for North and South, and a Council of Ireland nominated by both Parliaments to act in matters of common interest. It provided freedom with the exception of certain imperial services. There was still to be representation at London. Thus a British Act, passed without consultation or consent of the Irish majority, arbitrarily divided Ireland. The Irish were censored for their absence from Parliament during the discussion, thus making partition possible. The North accepted the Act reluctantly. One of the present Ministers in the North explains their attitude by saying, "The Ulster people, howbeit with some misgivings, accepted this settlement, ..."² The King opened the Northern Parliament on June 22, 1921.

When the general election was announced for the South of Ireland as provided in the Government of Ireland Act, 1920, the

1. Great Britain, Bills, Public: Vol. 11, 1920; London, H. M. Stationery Office. The Government of Ireland Bill, No. 231.
2. Hon. H. M. Pollock, M. P. Minister of Finance in Ulster. "Ulster As A Federal State"; The Christian Science Monitor (Boston), February 6, 1935; p. 2.

first Dail decided that these elections would be elections to itself.³ The Sinn Feins won 124 out of 128 seats. Only four members met and immediately adjourned. The other 124 constituted themselves the second Dail Eireann, representing in theory at least, the North and the South. It was this group that eventually ratified the Treaty. In the meantime, England attempted to reassert its rule over Ireland by means of the Black and Tans.

On June 2, 1921, the Prime Minister of England opened correspondence with De Valera, leader of the opposition in Ireland. A truce was declared on June 11, and as Nicholas Mansergh points out,⁴ since the English would not recognize the first or second Dail, the truce was signed with a section of their own people. On June 24 Lloyd George invited De Valera to attend a conference. De Valera accepted but the terms offered by Lloyd George were unacceptable. During the succeeding correspondence⁵ the British Government

3. For a running account, see Nicholas Mansergh, The Irish Free State-Its Government and Politics, Allen and Unwin, Ltd., London, 1933; p. 29. Hereafter this book will be cited as Mansergh. One of the best discussions of the Anglo-Irish Treaty is contained in the book.

4. Ibid., p. 29, passim.

5. "Proposals of the British Government, July 24, 1921 and Correspondence between Mr. Lloyd George and Mr. de Valera; November, 1921." International Conciliation, Vol. 1, 1922; pp. 423-464.

refused to recognize the Republic. Dominion status was offered but unanimously rejected by the Dail. De Valera took the stand that "Ireland's right to choose for herself the path she shall take to realize her own destiny must be accepted as in-defeasible.... It must of course be understood that the treaties and agreements would have to be submitted for ratification to the National legislature in the first instance and subsequently to the Irish people as a whole...."⁶

Mr. Lloyd George replied, "... but we must direct your attention to one point upon which you lay some emphasis, and upon which no British Government can compromise; namely, the claim that we should acknowledge the right of Ireland to secede from her allegiance to the King. No such right can ever be acknowledged by us."⁷

A second invitation was proffered by Lloyd George and accepted by De Valera, with a view to seeing how "the association of Ireland with the community of nations known as the British Empire may best be reconciled with Irish National aspirations."⁸

6. Ibid., pp. 428-30.

7. Ibid., p. 432.

8. Ibid., p. 457.

The words "association of Ireland with the community of nations" was susceptible of two interpretations. Lloyd George construed it to mean "within" the Commonwealth; De Valera construed it to mean "outside", in an external association. The opening conference took place in October of 1921. The negotiations lasted for eight weeks and were on the verge of breaking down more than once. The Prime Minister asked for a further discussion before a breakdown was announced on December 5. The Treaty was signed that night shortly after midnight. The English, still refusing to recognize the Republic, signed an agreement with a section of their own people. This prejudiced their claim that they were a government dealing with their own subjects.

De Valera at no stage in the negotiations gave up his republican claims.

The Treaty⁹ provided for the Irish Free State the same status as the Dominion of Canada. The crown was to be represented by a Governor-General and the Irish Free State assumed responsibility for part of the British national debt, the amount to be determined later. Harbor facilities were given the British Government and the coast of Ireland was to be defended by the British fleet for a period of years. The North was not to be coerced, and a boundary commission consisting of

9. See appendix, Article 2,

three, one each from the North, from the South, and from the British Government, was to determine the boundary line if the North chose to stay out.

Article 18 provided that the Treaty was to be ratified by "members elected to sit in the House of Commons of Southern Ireland." Arthur Griffith took it to the second Dail Eireann shortly after it was signed by the five delegates. The second Dail theoretically represented all of Ireland. During the debate, the question arose as to whether that assembly could surrender its own independence. Some took the attitude that national sovereignty is inalienable and that the assembly had no right to will it away. Mansergh points out that this philosophy is based on that of Rousseau who said a community could not will itself an injustice. Surrender of national independence is an injustice.¹⁰ De Valera's oft-quoted expression, "The people have no right to do wrong," is based on this philosophy.

Arthur Griffith and Michael Collins were accused of breaking an understanding to the effect that the complete text of the draft to be signed would be submitted to De Valera and his cabinet before signing. They both protested vehemently. The Letter of Credentials given them by De Valera before leaving for the negotiations with Lloyd George read:

10. Mansergh, p. 44.

TO WHOM THESE PRESENTS COME,

Greeting:

In virtue of the authority vested in me by Dail Eireann,
I hereby appoint

Arthur Griffith, T. D., Minister for Foreign Affairs,
Chairman;

Michael Collins, Minister for Finance;

Robert Barton, T. D., Minister for Economic Affairs;

Edmund J. Duggan, T. D.;

George Gavan Duffy, T. D.;

as envoys Plenipotentiary from the elected Government of the Republic of Ireland to negotiate and conclude on behalf of Ireland with the representatives of his Britannic Majesty George V., a Treaty or Treaties of Settlement, Association and Accommodation between Ireland and the Community of Nations known as the British Commonwealth.

IN WITNESS WHEREOF I hereunto subscribe my name as President.

Signed, 11

At the same time the representatives received a Letter of Instruction which read:

1. The Plenipotentiaries have full powers as defined in their credentials.

2. It is understood before decisions are finally reached on a main question, that a despatch notifying the intention to make these decisions will be sent to member of the Cabinet in Dublin, and that a reply will be awaited by the Plenipotentiaries before final decision is made.

3. It is also understood that the complete text of the draft treaty about to be signed will be similarly submitted to Dublin, and reply awaited.

4. In case of a break, the text of the final proposals from our side will be similarly submitted to Dublin, and reply awaited.

5. It is understood the Cabinet in Dublin will be kept regularly informed of the progress of the negotiations.¹²

11. Irish Free State Parliamentary Debates-Official Report: Dail Eireann, Vol. 1, col. 65; Sept. 11, 1922. Government Stationery Office, Dublin. This, with the Parliamentary Debates of the Seanad Eireann, will hereinafter be referred to as Parl. Debates, D. E. or S. E.

12. E. Oliver Boyle, "Making the Anglo-Irish Treaty." The Commonweal (New York), Vol. XVIII (August 4, 1933), p. 341.

This letter was made public for the first time in August of 1933. It is unfortunate that it was not published before the five Treaty signers were deceased. De Valera's viewpoint was that Plenipotentiaries are almost in every case governed by instructions received from the Government. They are merely agents. To ignore instructions or make a Treaty inconsistent with them is treason.

Arthur Griffith claimed that he had power to sign anything he considered it well to sign, and within the powers of the Dail was that of ratification. Cosgrave took the view that the secret instructions did not violate or restrict, according to international law, the plenipotentiary authority conferred by Dail Eireann, and expressly set out in the Letter of Credentials. Messrs. Robert Barton and George Gavan Duffy openly declared in the second Dail debates they had signed the Treaty reluctantly under the immediate threat of war.

De Valera offered as a substitute, his own famous Document Number Two.¹³ The important difference between the Treaty and Document Number Two was that Ireland was not to be a member of

13. A detailed discussion of the Document is given by Denis Gwynn in two of his books, The Irish Free State 1922-1927, Macmillan and Co., Ltd., London, 1928, and De Valera, Jarrolds, London, 1933. In the second book, although quoting from the document, he does not produce it in its entirety. The Document has never been officially published.

the Commonwealth, but associated externally with it in matters of common concern. In defence of it, De Valera stated that the Republican Cabinet in 1921 expressed its willingness to consider a certain form of association on condition that the minority in the North would accept a united Ireland.

The document contained an oath which read:

I... do swear to bear true and faithful allegiance to the Constitution of Ireland and to the Treaty of Association of Ireland with the British Commonwealth of Nations and to recognize the King of Great Britain as head of the Associated States. 14

De Valera did not deny authorship of the oath, his assertion being that it recognized the King in an external association and did not bind one in allegiance to him.

The document, like the Treaty which was accepted, provided for a boundary commission if the North refused to enter the Irish Parliament. Port facilities were also provided Great Britain. Denis Gwynn declares the document had a stipulation to pay part of the upkeep of the Royal household.¹⁵

De Valera says, "There was nothing of the kind, nothing about a national tribute, in Document Number Two."¹⁶

14. Irish Free State, Dail Eireann: Official Report (Debate on the Treaty with England), Dublin, The Talbot Press, 1922, cited by Wm. Wilgus, "Great Britain and the Irish Free State." Foreign Policy Report, Vol. VIII. No. 9 New York, 1932, p. 102.

15. Gwynn, The Irish Free State, p. 58

16. Parl. Debate, D. E., Vol. XLVII, col. 435.

The document acknowledged the actual position of the crown while denying its authority in Ireland. If England accepted it, the King would be dethroned in Ireland. The King is the Commonwealth, and a Kingdom and Republic are incompatible. Their structures could not be mingled. The ideal of an "Associate State" is alien to the structure of Empire according to the English point of view. The granting of special privileges to Great Britain about ports would have brought the Irish Republic into conflict with international law. De Valera withdrew it as a substitute for the Treaty when it was seen that it had no chance of passing in the second Dail.

Arthur Griffith in the closing debate on the Treaty in the Dail said:

It [the Treaty] has no more finality than that we are the final generation. But we here can accept that Treaty and deal with it in good faith with the English people, and through the files of events reach, if we desire it, any further status that we desire or require. We can make peace on the basis of that Treaty; it does not forever bind us not to ask for any more.¹⁷

Warner Moss who expresses the views of Denis Gwynn and P. S. O'Hagerty, men not in sympathy with De Valera, says the division on the Treaty showed the economic rivalry existing be-

17. See Footnote 15; Arthur Griffith. Cited by The Economist (London). Weekly; Vol. CXVII (December 9, 1933). Editorial; pp. 1111-1112.

tween those who had and those had not established themselves. One section believed that Sinn Fein would not be able to carry on if the Treaty had been refused. American opinion was a strong factor in the fight and its sympathy was not to be alienated. The question of nationalism entered. Ordinary pursuits were not sufficient to replace the glory of the hero fighting for his ideals. The creation of a stable government would end the opportunity for the indulgence of temperament.¹⁸

The second Dail on January 7, 1922, ratified the Treaty by a vote of 64 to 57. Originally this group was not elected to ratify it. De Valera resigned as President and when he was nominated for re-election was defeated by two votes. He and his followers withdrew and Arthur Griffith was elected in his place.

In agreement with Article 18 of the Treaty that a meeting of the members elected to sit in the House of Commons of Southern Ireland approve it. Griffith summoned the remnant of the second Dail to an assembly which met on January 14, 1922, in the Mansion House. This assembly, augmented by the representatives of Dublin University who had never participated in the first or second Dail, did not represent the House of Commons of Southern Ireland. Furthermore, the House of Commons of Southern Ireland did not have the power to make laws in respect of Treaties.

18. Warner Moss, Political Parties in the Irish Free State, Columbia University Press, New York, 1933; pp.18-22.

Section 4 of Clause 5 of the Government of Ireland Act, 1920, which dealt with the legislative powers of the Parliament of Southern Ireland stated that it had no right to make laws in respect of,

Treaties, or any relations with foreign states, or relations with other parts of His Majesty's Dominions, or matters involving the contravention of treaties or agreements with foreign states or any part of His Majesty's Dominions, or offences connected with any such treaties or relations.....19

The assembly ratified the Treaty and appointed a Provisional Government. It did not take the required oath, however.

On March 3, 1922, the British Parliament passed the Irish Free State Agreement Act giving the force of law to the Treaty. By its terms the Parliament of Southern Ireland, that group which met in the Mansion House after the ratification by the second Dail, was to be dissolved and elections were to be announced for a new House of Parliament for Southern Ireland to which the Provisional Government was to be responsible. In the meantime, the provisional government appointed a committee to draft a constitution. It was to make a preliminary report within a month. On May 27, 1922, the provisional government issued a proclamation declaring "the calling of a Parliament in Ireland." Elections were held in June. The burning issue was the acceptance or rejection of the Treaty and the Constitution.

19. Government of Ireland Act.

The final draft of the Constitution, making it subservient to the Treaty, was published the night before the election.

Before the election a pact was signed by De Valera and Michael Collins in which a national Sinn Fein coalition panel was set up. The anti-treaty party was to receive the same strength in the third Dail Eireann as they had in the second. The coalition Government was to rule until such time as the people would have an opportunity to express themselves for or against both acceptance of the Articles of Agreement for a Treaty and the proposed Constitution, approved by the British Government. The candidates for the panel were chosen in May. The pact was broken and pro-treaty and anti-treaty groups formed separate organizations. Other parties entered the contest, notably the labour and the farmer groups. Both were pledged to uphold the treaty and won 17 seats each in the new Dail. With the followers of Griffith and Collins the pro-treaty group won 94 out of 128 seats in the election. The De Valera followers won the balance.²⁰

The re-opening of hostilities to civil war proportions between the rival Irish groups, prevented the third Dail from

20. For discussion on this, see Andrew Malone, "Party Government in the Irish Free State", Political Science Quarterly, Vol. XLIV, 1929; Columbia University Press, New York; p. 366. Also, Gwynn, De Valera; Moss, Political Parties, p. 22.

meeting in July as scheduled. When the deputies finally met on September 9, 1922, both Arthur Griffith and Michael Collins were dead, and the anti-Treaty group refused to take part in the government. Cosgrave, the new President, and Kevin O'Higgins used strong methods to suppress the civil war. Seventy seven republicans were executed. In the spring of 1923 De Valera told his followers to lay away their guns.

In the meantime the third Dail modified and accepted the draft Constitution drawn up by the constitutional committee by passing the Constitution Act on October 25, 1922. Besides giving assent to the Constitution and making it an agent of the Treaty, the third Dail declared itself to be a constituent assembly. No other legislation was passed by the assembly before it was dissolved by Cosgrave on August 9, 1923.

The British Government approved the Constitution and the Treaty by passing the Irish Free State (Constitution) Act on December 5, 1922. The Constitution became effective the next day.

The Irish strengthened their position by registering the Treaty with the League of Nations and actively participating in the League's activities. The British seal of the realm was used in Commonwealth business, giving the British Government the right of consideration of any proposed international action.

The Irish objected and insisted on a seal of their own, thus removing the power of the British Government, and making it possible for the Irish to approach the League directly. The fourth Dail, elected in 1923, had the Treaty recorded on July 11, 1924.

The British Government objected to the registration of the Treaty and sent a note to the League on November 27, 1924, in which it pointed out that the terms of Article 18 of the Covenant of the League were not applicable to the Articles of Agreement. Its point was that common allegiance to the Crown prevented relations of Commonwealth members from becoming international.²¹ The Irish Free State answered in a note dated December 18. It held that the obligations of Article 18 apply to every member of the League, and that the Irish Free State could not accept the interpretation which the British Government was reading into it.²²

In the Imperial Conference of 1926 the matter was discussed but no conclusive report was issued. To widen the breach the Irish Free State on September 14, 1929, accepted the optional clause of the Statute of the Permanent Court of International Justice providing for compulsory arbitration of

21. League of Nations, Treaty Series; Publication of Treaties and International Engagements registered with the Secretariat of the League, Vol. XXVII, 1924; p. 449.

22. Ibid., p. 450.

legal disputes, "on the sole condition of reciprocity."²³ The rest of the Commonwealth members insisted that disputes should be settled by members of the Commonwealth. On September 29, His Majesty's Governments in the United Kingdom, Canada, Australia, South Africa, New Zealand, and India accepted as compulsory the jurisdiction of the Permanent Court of International Justice under the optional clause of Article 36 of the Statute of the court. They excluded from their declaration of acceptance "disputes with the government of any other member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree...."²⁴

The Statute of Westminster passed in December of 1931 by the British Parliament contains the following:

No law or no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England or to the provisions of any existing or future Act of Parliament of the United Kingdom or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule, or regulation in so far as the same is part of the law of the Dominion.²⁵

At the time the Statute was under discussion in the Brit-

23. Permanent Court of International Justice, Publications; Series E, Sixth Annual Report; The Hague, 1929, p. 478.

24. Ibid., passim.

25. Great Britain, Bills, Public: Vol. 111, 1931-32; Statute of Westminster, clause 2.

ish Parliament, members of the Government with the exception of Winston Churchill gave as their opinion that the Anglo-Irish treaty would not be affected. Churchill said that he had been advised on high legal authority that if the Statute were passed,

It would be open under this Bill to the Dail at any time to repudiate legally... with the full sanction of law and Parliamentary procedure, every provision of the Articles of Agreement....to repudiate the oath of allegiance...(and to) abolish ... the right of appeal to the Privy Council. 26

A motion was made to put in a specific amendment to prevent a change in the 1921 treaty but was defeated in deference to the Irish sentiment.

Thus things stood when the general election to Dail Eireann took place in February of 1932.

26. Great Britain, The Parliamentary Debates: Official Report. House of Commons, Vol. 259, 5th Series, London. Hereafter this work, together with the House of Lords Debates, will be cited officially as given on title page of book. E. G., 259 H. of C. 5s. Cols. 1194-1195.

CHAPTER 11

THE RISE TO POWER OF FIANNA FAIL

The victory at the polls made the Fianna Fail party the largest single group ever elected to the Dail in the five general elections of the Irish Free State to that date. It headed the poll in 21 of 29 constituencies. The proportional representation system cut its gains somewhat. The vote was orderly and with the exception of a few minor cases, there was an absence of disturbance.

The following table shows the standing of the parties in 1932:¹

BEFORE THE ELECTION:

Government Bloc

Cumann na nGaedheal	65
Independents	11
Farmers	6
Independent Labour	2
National League	1
	<u>85</u>

Opposition Bloc

Fianna Fail	56
Labour	an 10
Independent Republic-	1
	<u>67</u>

AFTER THE ELECTION:

Government Bloc

Fianna Fail	72
Labour	7
	<u>79</u>

Opposition Bloc

Cumann na nGaedheal	56
Independents	11
Farmers	4
Independent Labour	2
	<u>73</u>

A question immediately arose. Why was the man who was accused of causing the bitter Civil War, returned to power?

1. For statistics on political parties, see Moss, op. cit., passim.

It must be recalled that two important factors in the life of any state are security and finance. The election crystalized these in the abolition of the oath and the land annuities. Besides these, Fianna Fail also announced as part of their program a protective tariff policy, and repeal of the Public Safety Act of 1931.

The economic aspect was thought to be the more important of the two. De Valera's success was attributed to the development of agriculture by the Cosgrave government at the expense of the home industries. The Cosgrave government had refused to erect high tariffs to any great extent. The promise of withholding the annuities was thought to have more weight than the abolition of the oath. The depression, together with the fact that Cosgrave had been in office for ten years, longer than any other European government leader, made him unpopular. The large Fianna Fail vote was said to be the upheaval of a peasant class against a propertied middle class. The existing government had become extremely conservative and developed a subservient attitude to established interests.

However, the political context appears to be the real issue. Steadily the Republican deputies had been increasing in the Dail. The anti-Treaty group had been growing. Returns since 1922 show this.

ANTI-TREATY GROUP IN THE DAIL

YEAR OF ELECTION		NUMBER OF DEPUTIES
June,	1922	34
August,	1923	39
June,	1927	44
Sept.,	1927	57
Feb.,	1932	72
Jan.,	1933	77

The Labour delegates during the same period decreased from 17 in 1922 to 9 in 1933.

The Round Table states, "As the British Government are apparently aware, this [gradual severance of all Constitutional links] and not the land annuities, is the real question to be decided."²

Neville Chamberlain, Chancellor of the Exchequer in the House of Commons said,

This dispute between the Irish Free State and ourselves, although in its present acute form it arose on account of the withholding of the annuities, was really an incident in a political dispute.³

The outgoing Government was so unpopular that trial by jury was almost impossible. It is believed that there was a wide

2. Anonymous contributors, "Ireland: The Tariff War," The Round Table, Vol. XLIII (December, 1932), p. 135; Macmillan, London. The magazine is a quarterly review of the politics of the British Commonwealth of Nations. It claims to be free from the bias of local party issues. Hereinafter this magazine will be cited as Round Table.

3. 291 H. of C. 5s., col. 42.

conspiracy to upset the Free State Government, and that the election may have prevented this. The Cosgrave Government had used the Public Safety Act to preserve the status quo. In order to deal with the opposition, they had passed the much hated Act in October of 1931. Its purpose, according to Cosgrave, was to protect the ordinary law-abiding citizen and the country from unwarranted invasion of his rights. The Act was made a new article of the Constitution, 2A, and all subsequent articles were to be interpreted in the light of it. It consists of a Tribunal composed of five military members with power of life and death for dealing with political crimes. Fianna Fail fought the passage of the Bill. De Valera held that the ordinary law was sufficient, and that if causes of disorder existed, they required remedy.

The Bill was introduced in the Dail on October 14, rushed through the Senate and received assent on October 17-three days to amend the Constitution.

Whatever traces of civil liberty were left in the Irish Free State after the Public Safety Act of 1927 have now been destroyed by the Constitutional Amendment which was forced through the Dail last October in three days.

And again,

The habeas corpus, inviolability of a man's dwelling, the right of assemblage, and the right to a

trial by jury, have been abolished for Republican sympathizers.⁴

The writer, an American, thinks it was evidence of a resurgence of national feeling, a confession of weakness and fear on the part of the Government.

The Round Table writes, "This tribunal wields powers such as no judicial authority has ever exercised before in Ireland."⁵

The Cosgrave Government made an initial blunder in not securing complete surrender of the Irish Republican Army in 1923 and tried to rectify it by the above Act. The Irish Press, De Valera's paper, was prosecuted just before the election for violation of the Act, and, "... although the defendants were fined £100 each, the evidence justified the editor's action and discredited the C. I. D. department and its head."⁶

One interested in Irish affairs writing in The Nation expressed the opinion that,

The question at bottom is the old question which Mr. De Valera's extraordinary will-power and personal attraction have managed to revive-that old question which was fought out for so many painful weeks in the autumn of 1921 in the Irish Dail: Shall Ireland accept the Treaty or

4. Robert Reinhart, "Liberty in the Irish Free State." The Nation, Vol. CXXXIV (February 24, 1932), p. 239.
5. Vol. XXII (December, 1931), p. 142.
6. Ibid. (March, 1932), p. 494.

shall she not? Or, more accurately, shall Ireland repudiate the Treaty she has signed or shall she accept it irrevocably? ⁷

With political power in their hands, Fianna Fail proceeded to use the oath as a lever to change the Treaty by unilateral action and progress towards a Republic.

⁷. An Irish Observer, "The New Irish War", The Nation, Vol. CXXVlll (January 10, 1934), p. 39.

CHAPTER 111

THE OATH AND THE TREATY

1

The Oath to the King

The reluctance of many of the Irish to take the oath of allegiance is deep-rooted. Since the defeat of James II a large section of the people have had no love for British royalty. This lack of affection was augmented during the reign of Queen Victoria who refused all contact with the Irish. Since Parnell's time, the Irish Parliamentary party has not attended court functions.

Article 17 of the Irish Free State Constitution which contains the objectionable oath reads:

I _____ do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to His Majesty King George V, his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

Such oath shall be taken and subscribed by every member of the Oireachtas before taking his seat therein before the Representative of the Crown or some person authorized by him. 1

Long before the Fianna Fail party gained a majority in the Dail it had made attempts to have the oath removed. Refusal of the elected deputies to take the oath prevented the party from participating in the Government up to 1927. The people came to 1. Barra O'Briain, The Irish Constitution. The Talbot Press, Ltd., Dublin, 1929; p. 5.

believe that negotiations could be started with the British Government to abolish the oath, and in the election of June, 1927, the Government majority was diminished. The Government decided to adopt measures to force the anti-oath group to enter the Dail. The Oireachtas (Parliament) passed an Act which made it compulsory for a prospective candidate before becoming a candidate for election to proclaim his intention of fulfilling the requirements of the Constitution. This Act, together with the murder on July 10, 1927, of Kevin O'Higgins, a capable and forceful member of the Government, caused the De Valera group to enter. The murder made the United States angry and brought discredit on the groups in opposition to the Government, although some believed members of the Government party were responsible for it. A break had occurred between the Irish Republican Army and the De Valera group in 1925. Both groups officialy disclaimed the murder. The De Valera group, claiming that the oath was a meaningless formula, for the first time entered the Dail in August of 1927. The Irish Republican Army to the present has refused to recognize the jurisdiction of the Dail. Several Public Safety Acts have been passed to curtail the activities of the Army, culminating in the drastic one of 1931.

The Fianna Fail party was prepared to form a Government

with the support of Labour and the National League. The central feature was modification of the compulsory imposition of the oath, by agreement with the British Government. The vote of no confidence in the Government on August 16, 1927, was defeated by one vote, the Speaker's.² Cosgrave dissolved the Dail and called for new elections. The Fianna Fail party increased in power at this election, but not in numbers sufficient to establish a Government.

They proceeded to use Article 48 of the Irish Free State Constitution, which gave permission to the Oireachtas to provide for the initiation by the people of proposals for laws and constitutional amendments. If the Oireachtas did not, within a period of two years from the adoption of the Constitution, make such provisions, 75,000 voters could petition the Oireachtas to pass legislation introducing the initiative or submit the question to a referendum. In 1924 a Cabinet Subcommittee set up to consider necessary amendments to the Constitution reported in favor of abolition of the initiative and referendum.³ The Government did not act on it at once. In 1927 Fianna Fail collected more than 75,000 signers to a petition to force the Oireachtas to provide for it, hoping in this

2. Parl. Debates, D. E., Vol. XX; Col. 1671, et. passim.

3. Mansergh, p. 143.

way to abolish the oath. The petition was presented to the Dail in May of 1928. The 48th Article of the Constitution did not describe what procedure should be followed when a petition was presented. It was referred to the Committee on Procedure and consideration on it was postponed.

A Constitution (Amendment) Act⁴ was then passed by the Oireachtas to abolish articles 47 and 48 which would make referendum on the question possible. Mansergh thinks the Government was wise in abolishing the articles.⁵ He is supported in this view by others who argue that where the initiative has been used by other countries, unwise legislation usually was the result. Referendum is unnecessary, as an election after the dissolution of a Dail is in the nature of one. All writers do not agree, however. One such writer states that the initiative and referendum were abolished by Cosgrave for political purposes because De Valera was about to use them effectively.⁶

The election in 1932 gave De Valera his chance to abolish the oath. Claiming a mandate from the people he introduced the Removal of Oath Bill in April. His opponents said he did not have a mandate. The total vote cast was 1,274,156. Dis-

4. Amendment Number 6.

5. P. 138

6. Malone, op. cit., p. 376.

counting the spoiled votes, the pro-oath group received the following:⁷

Cumann na nGaedheal	449,779
Independents	124,513
Farmers	34,989
	<hr/> 609,281

The anti-Oath group:

Fianna Fail	566,325
Labour	98,263
	<hr/> 664,588

The Labour party, an opportunist group since the Fifth Dail, favored abolition of the oath.⁸

The Removal of Oath Bill proposed to amend three articles in the Constitution, 17, 50, and 55, and Section 2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. Articles 50 and 55 of the Constitution were to have those sections removed which gave the Treaty ascendancy over the Constitution or had any reference to the Oath. Article 17 was to be removed entirely.

Section 2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922 reads:

2. The said Constitution shall be construed with reference to the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Second Schedule hereto annexed (hereinafter referred to as 'the Scheduled Treaty') which are hereby given the force of law, and if any provision of

7. Round Table, Vol. XXII, 1932; p. 494.

8. Parl. Debate, D. E., Vol. XX: col. 1671.

the said Constitution or of any amendment thereof or of any law made thereunder is in any respect repugnant to any of the provisions of the Scheduled Treaty, it shall, to the extent only of such repugnance, be absolutely void and inoperative and the Parliament and the Executive Council of the Irish Free State (Saorstát Éireann) shall respectively pass such further legislation and do all such other things as may be necessary to implement the Scheduled Treaty. ⁹

Thus all references in the Irish Free State Constitution and in the Constitution Act binding it to the Treaty were to be removed along with the Oath.

The Bill was passed by the Dail on May 19, 1932 and sent to the Senate. The Senate passed the Bill after deleting those sections which removed the Treaty from the Constitution. It added a new section which provided that the Act should not come into force until an agreement with the British Government made void Article 4 of the Treaty which prescribes the Oath. The changes were rejected by the Dail.

The Government had to wait many months to make the Bill effective but incidents in the next few months strengthened its position. In November of 1932 a vote of censure for failure to adjust differences with Great Britain was introduced in the Dail by Cosgrave.

9. The Constitution of the Irish Free State (Saorstát Éireann) Act, 1922; No. 1 of 1922, cited by O'Briain, p. 176.

It lost by five votes. In January the Government decided to risk another general election since its program of economy on salaries alienated some of the Labour vote on which it had to depend.

The new election, with the Speaker's vote, gave De Valera a majority of all votes in the Dail.

Anti-Oath

Fianna Fail	77
Labour	8
	<u>85</u>

Pro-Oath

Cumann na nGaedheal	48
Center (Farmer)	11
Independents	9
	<u>68</u>

Under a non-transferable system the De Valera party would have almost filled the Dail. From Donegal to Bantry Bay, roughly termed the West of Ireland, having approximately one-half the whole population apart from Dublin, De Valera gained. He gained also in the Midlands, hit most by the economic war because of the large land tracts and grazing.

The results brought the most varied interpretations. His friends were articulate in his defense. The following views were expressed by the current periodicals. The election showed that the Irish were not hostile to Great Britain; they only desired their independence. The election was quite free and

practically no cases of intimidation were alleged. The popular verdict was unmistakable and De Valera deserved the reward of his courage in calling a new election. The unusual personality of De Valera appealed to the Irish who prefer persons to policy.¹⁰ He seemed to employ no arts of flattery nor compromise to gain his ends. The unselfish efforts of seventeen years won the admiration of the Irish people. He is the symbol of Ireland's defense against England, the champion of the poor and lowly against the rich and mighty.

An English paper writes,

Strange though it may appear, a large number of persons have been temporarily benefited by the policy pursued during the past year.... Moreover, the vote of confidence in Mr. de Valera which the country had undoubtedly passed may have a sobering effect even on Mr. Thomas, whom it may rouse to the realities of the Irish situation.

The election has at last shown that the tariff war has completely failed to bully the farmers, and that the big stick is not the weapon with which to solve the Anglo-Irish disagreements. 11

The Chicago Tribune in an editorial stated,

Apparently they have counted the costs and nevertheless cast their political lot with the militant Jeffersonian, the soldier democrat, who promises them more of the consciousness of the free man than even now the Free State gives them. 12

10. Contemporary Review, No. 829; January, 1935; p. 68.

11. The Economist, Vol. CXVI (February 4, 1933), p. 229.

12. The Chicago Tribune: Daily (February 1, 1933), Editorial; p. 12.

His enemies were particularly vociferous. Before the election it was predicted that no free vote was to be expected in Ireland because the Irish Republican Army would not allow it.¹³ He was supported by the Irish Republican Army because he was the less of two evils. Opponents pointed to the immense amount of personation and intimidation. Trickery in public affairs was condemned. The "have-not" elements were appealed to. The opportunity so dear to every irresponsible Irishman of attributing all his misfortunes to England was used. De Valera exploited latent jealousies between town and country, the poor and the well-to-do.

The election made it possible to reintroduce the Removal of Oath Bill under the terms of 38A of the Irish Free State Constitution, and pass it over the head of the Senate. They again declined to consider it further until it had been made the subject of negotiation between the Executive Council and the British Government. It was refused a second reading. It became a law without their consent on May 4, 1933.

The passage of the Bill meant that the Irish courts can no longer declare legislation invalid on the ground that it contravened the terms of the Treaty. Municipal law was removed

13. Stephen Gwynn, "Ebb and Flow", The Fortnightly, Vol. CXXXVlll (September, 1932). Monthly, (London), p. 387.

from dependence on the Treaty.

The Government based its right to remove the oath by unilateral action on the contention that it is not compulsory in the Treaty. Article four of the Treaty does not contain the section included in article seventeen of the Constitution, "Such oath shall be taken and subscribed by every member of the Oireachtas before taking his seat therein before the Representative of the Crown or some person authorized by him."¹⁴ Therefore it is not mandatory and its removal does not violate the Treaty. The oath is purely a domestic question, recognized as such by the Imperial Conference which had decided that only two common forms were essential to members of the Commonwealth; the law of succession to the Crown of Britain and Royal style and title. No negotiations with England were needed, as negotiations would prejudice the claims of the Irish Free State.

In replying to one of Mr. Thomas's notes the Government took the stand that whether the oath was or was not a part of the Treaty was not the issue. It was a burden to the Irish people.¹⁵ De Valera declared in the Dail that even if it were a violation he would feel duty bound to violate it. If the

14. See page 25.

15. Great Britain, "Parliament." Parliamentary Papers: Accounts and Papers, Vol. XLV, 1931-32, "Papers relating to the Parliamentary Oath of Allegiance". H. M. Stationery Office, London; p. 2.

British object, the Permanent Court of International Justice should try the case.¹⁶

The repudiation of the primacy of the Treaty over the Constitution is based on the Statute of Westminster which recognized the competence of the Free State Government to take such action. The previous government had also availed itself of the Statute in attempting to remove appeal to the Privy Council by unilateral action. Since the Imperial Conferences of 1926 and 1930 the ability of the Dominion of Canada to alter her Constitution unilaterally is hardly open to question. The Free State Constitution was expressly compared to that of Canada.

The opposition in the Oireachtas insisted on several points, namely: The government had no mandate to remove it; the oath was part of the Treaty as well as of the Constitution. It could and should be modified but only by both parties. Abrogation of part of the Treaty made the whole Treaty void. Unilateral action on this question made all international agreements impossible. Negotiation could easily remove the oath but under no circumstances should section 2 of the Constitution Act be removed. The North was definitely alienated by the removal. There was a fundamental obligation on the part of each member of the Commonwealth to consult together on all

16. Parl. Debate, D. E., Vol. XLVII, col. 439.

matters of general interest. The Treaty had been modified by negotiation in 1926 as a result of the boundary question. Why not negotiate to remove the oath?

From the beginning the British Government said that the oath was an integral part of the Treaty. Moreover, passage of the Bill would repudiate the whole settlement of 1921.

Besides, there was a difference between two parties to an agreement, and one of the parties repudiated it. No more was to be said. Consultation with the rest of the Dominions was out of order.¹⁷ In the correspondence between Mr. Thomas and Mr. de Valera, both remained rigid. Australia, New Zealand, and South Africa sent notes to De Valera expressing the hope that no difference of opinion would arise to weaken the unity of the British Commonwealth.

Every shade of opinion was expressed by the Irish and English press. One English weekly published extensive comments and letters. Its opinions were liberal on most points.

De Valera's contention that the oath was not mandatory in the Treaty was a weighty argument, and Mr. Thomas in remaining rigid, made a mistake.¹⁸ A contributor, however, showed the danger of allowing a Prime Minister of a Dominion who had not

17. Great Britain, Parliamentary Papers. Op. cit., p. 3.

18. The New Statesman and Nation (London). Besides editorial comments published frequently, many letters from contributors were reproduced.

taken the oath of admittance as a member of the Committee of Imperial Defense where the most confidential data is supplied and confidential matters discussed.¹⁹ A reactionary English paper threatened that the Irish Free State might be compelled to accept a more onerous arrangement. The paper admitted the oath was not a part of the Treaty, but the refusal to acknowledge the King made the Free State no longer a part of the hereditary monarchy.²⁰

Another English periodical thought the attempts of Great Britain to tie the Irish Constitution by perpetual reference to the Treaty was flagrantly discriminatory as compared with Canada's Constitution. The Free State is constituted sovereign by the consent of the Irish people.²¹ With the exception of the newspaper, The Irish Press, controlled by Fianna Fail, most of the Irish press were opposed to abolition. The removal of the oath was not a victory for republicanism, just a victory for disorder. Even if the Statute of Westminster removed obstacles, the Treaty was still binding on the

19. Ibid., Vol. 111 (April 16, 1932), p. 478.

20. The Saturday Review (London), Vol. CL111 (March 26, 1932) (Notes of the Week), p. 312.

21. The Economist, op. cit.; Vol. CXV11, 1933; Editorial, p. 1112.

grounds of good faith.²²

An American writer remarked that although the Treaty should have read, "The oath must be taken..." instead of, "The oath to be taken", article two of the Treaty provides that the practice and constitutional usage governing the relationship of the Crown to the Irish Free State shall be the same as that governing the relation of the Crown to the Dominion of Canada. In Canada the oath to the Crown is an accepted obligation of all members of the Parliament; therefore it should also be an obligation in the Free State. 23

2.

A Municipal Oath

With the victory of the Oath Act the Republican forces were determined to remove all other traces of political tests. Another objectionable oath, preventing Republicans from accepting municipal offices, remained. It was removed by the Local Government Act, 1933. Section seventy-one of the Local Government Act of 1925 contained the following which was to be applicable to new appointees and those seeking increases in salary.

22. Michael Tierney, "Partition as a Policy of National Unity." Studies, Vol. XXIV (March, 1935). An Irish Quarterly Review. (Dublin), p. 7. Hereinafter cited as Studies.
23. James McDonald, "The Irish Election," The World Today, No. 147 (February 11, 1933), p. 5.

I do solemnly and sincerely declare that I will bear allegiance to the Irish Free State and its Constitution as by law established and that in the event of such appointment being confirmed by the Minister for Local Government and Public Health I will to the best of my judgment and ability duly and faithfully perform the duties of the said office and will observe and obey such orders and directions in relation to such duties as shall lawfully be given to me. 24

Republican civil service employees already in office, refusing to swear allegiance to the Constitution, were deprived of increases in salary. Their attitude was expressed by a Republican government official who stated that,

... if loyalty to a public authority is not in the heart and mind of the individual, or the citizen, or official, no declaration of this kind that may be taken, forcing him against his will will make him do his work better or more conscientiously. 25

The Government held the view that the declaration was not introduced by the previous Free State Government, was not in the original bill when introduced, and was not asked for by the Cosgrave Minister for Local Government and Public Health. Furthermore, the Government held that it was introduced in the

24. Parl. Debates, S. E.; Vol. XV, col. 887.

25. Ibid. D. E.; Vol. XLVI, col. 302; O'Ceallaigh (O'Kelly).

seanad by a narrow-minded, bigoted, anti-Republican person, not to secure loyalty but to prevent any one, Republican or otherwise, who would not sign it, from securing office. The oath for municipal office had driven Irishmen to America and Australia, whereas the primary object of the Local Government Act, 1933, was to put an end to discrimination.

The removal of the two oaths eliminated all political tests for national and local offices.

3

The Treaty

The final passage of the Oath Act was the occasion for much discussion as to the validity of the 1921 Treaty. Several inconsistencies undoubtedly exist. The Articles of Agreement have not been signed by two independent governments. The Irish Republic had not received formal recognition from the League of Nations. It had not established its authority; the word treaty was a concession to Irish sentiment. The British government accepted that view. The Treaty is not an inter-Commonwealth agreement. King George as Sovereign of the United Kingdom of Great Britain could not make a normal Treaty with King George as Sovereign of Ireland. The Treaty and Constitution conflict in several places. One such example is that the Treaty says the position of the Free State in relation to the Imperial

Parliament and Government was to conform to that of Canada. The Constitution says the Free State legislature possesses full powers of amendment for a period of years. The Canadian Parliament does not have this power.

The status of Canada in 1921 was not a stereotyped legal formula.

The finality of the Treaty is questioned by the Republicans because it overlooked the essential fact that Ireland is a self-conscious European nation older than the British nation. The Treaty sought to treat a mother country as a developed colony. If a Treaty is justifiable at all it should be in a court of an international character in which two nations involved would appear as two persons before it.

"If there are any bargains standing in the way of the sovereignty of our people they have got to go."²⁶

The Treaty was signed under threat, and, therefore, no moral question or question of national honour was involved in its breaking. The conscience of the Irish people denounces it and conscience stands above treaties. The Imperial Conferences had changed completely the position of the Governor-General and the British Cabinet among members of the Commonwealth. The

26. Ibid., D. E.; Vol. XLIX, col. 2392; De Valera.

Treaty could not make the Irish Free State position stationary. Article twelve of the Treaty provided for a commission of three to decide the boundary line between the North and the South. The North had refused to participate. They challenged the interpretation of Article twelve. The British Government admitted there was a good legal claim in that instance. The challenge of Article four by the Free State also had a good legal argument. Finally, not only does the Statute of Westminster give the Irish people the right to remove the Treaty clauses from the Constitution and the Constitution Act, but the Statute supersedes the Treaty itself.

Mr. Thomas expressed the opinion of the British Government on the legality of the Treaty in discussing the abolition of the oath.²⁷ The Right Honorable Winston Churchill can also, as a treaty signer, be said to represent the point of view of the British Government. The finality of the Treaty is unquestioned. He said on one occasion,

We have no intention of receding in any detail, or in any respect, from the Treaty. There it stands for all time as a measure and symbol of the relationship which should exist between these two islands.²⁸

Irish public opinion is divided. Trouble was anticipated before the present government took action. Andrew Malone wrote in 1929,

27. "Papers relating to the Parliamentary Oath of Allegiance".

28. Wm. G. Fitzgerald, Editor; The Voice of Ireland, John Heywood, Ltd., London. No date of publication given.

The Irish people as a whole favored the 'Treaty' mainly on the understanding that 'Dominion Status' was to be used as a 'stepping-stone' to the achievement of complete independence.... the question must be pressed to an issue sooner or later. 29

However, the Loyalist thinks that the signing was a surrender by the British to treason on the part of the Irish. The extreme Left Irish view insists that people who in 1918 gave the first Dail a mandate on the Proclamation of a Republic were given no opportunity to reconsider or to withdraw their mandate. Irish Republican Army members were not given the chance of expressing their attitude. Ratification is therefore null and void and not binding on the nation. The Irish Republican Army does not consider the 1922 election a mandate. The pact which would have given a fair expression of opinion was broken by Michael Collins on direct order of the British military authorities.³⁰ Collins was murdered a few months later.

A variety of opinions is also expressed by the British press. "Ireland had then obtained terms which America had waged the greatest civil war in history to avoid giving to the South."³¹ Some assert that the Treaty was devised especially

29. Malone, op. cit., p. 376.

30. Commonweal, Vol. XVIII (May 12, 1933). Open letter to Padraic Colum by Michael O'Kiersey, p. 47.

31. Earl of Midleton, Ireland, Dupe or Heroine, Wm. Heinemann, Ltd.; London, 1932; p. 129.

to protect the Southern Loyalist minority, and if the Treaty is wiped out of existence, it will be a sin against Ireland; a mockery of democracy. An English liberal weekly holds that the bond no longer has any advantage to the English, especially since the passage of the Statute of Westminster, and brings no security. It might conveniently be abandoned. The English consented to revision of the Versailles Treaty by Germany without the consent of all. There is no pretense except in England that the Treaty settlement was either popular or final in South Ireland. ³²

Quotations from international law on the legality and morality of the right to break the Treaty can be obtained to support either side. In 1910 T. J. Lawrence, an exponent of international law wrote that the old order founded on the doctrine of independent states was breaking up. Its finality was questioned. States cannot remain equal in political rights and social standing as the society of nations has become self-conscious and is preparing itself for the performance of legislative, administrative, and judicial functions. ³³ F. E. Smith pointed out that international law is infrequently violated and

32. The New Statesman and Nation, op. cit., Vol. 111 (March 5, 1932), p. 286.

33. Principles of International Law, Macmillan, 1910; London, p. 288.

that breeches are consecrated by successful use of violence. 34

In opposition to the above view is one which holds that legally the breaking of the Treaty followed international law. Morally, it is to be questioned. Treaties are morally binding even when consent has been unjustly extorted from one of the parties. 35

However, the Reverend Michael Cronin modifies this view by saying that a treaty is not valid,

...if the conditions imposed are manifestly and flagrantly unjust, for instance, if they are such as to reduce a State to the condition of absolute and irretrievable penury and the distress is extreme. 36

One English writer commented that De Valera furnished an apt retort to the broken Treaty of Limerick. 37

Mansergh raises two questions that require an answer if the Treaty is formally abrogated: Will the Irish Republic again come into existence? Are treaties made between Commonwealth members national or international? 38 The League of Nations could pass judgment on the latter.

34. International Law, Little Brown & Co.; Boston, 1911; p. 16.

35. Theodore Meyer, S. J., Institutiones Juris Naturalis, Vol. 11, No. 716, Herder, Friburg, Germany, 1900; p. 769 e.s.

36. The Science of Ethics, Vol. 11; Special Ethics, Benziger Bros., New York; p. 657, et. seq.

37. W. M. Conacher, "De Valera", Queen's Quarterly, Vol. XL1; 1934, p. 320.

38. Op. cit., p. 275.

CHAPTER 1V

CONSTITUTIONAL AND LEGISLATIVE BARRIERS:

CHANGES AFFECTING EXTERNAL RELATIONS

Certain remaining provisions of the Treaty and of the Free state Constitution even with the Treaty clause removed stand in the way of absolute independence of Ireland from Great Britain. The removal of the Treaty clause was the opening wedge. Once the Treaty sanctity had been questioned, nothing stood in the way of continuing the process of violation. The policy of piece-meal reduction of the barriers was adopted. De Valera accepted a path suggested by Griffith but abandoned by Cosgrave. Almost all of the clauses in the Constitution which tie it to Great Britain have been deleted or amended. The Government party organ states that,

"...the Treaty of Surrender could best be undone by amending it out of existence."¹

Limitations preventing complete sovereignty put in the Constitution and Treaty were articles relating to the Crown, the right of appeal to the Privy Council, harbor facilities, and the size of the Army. The position of the representative of the Crown was attacked. In the Irish Free State he is the Governor-General. He holds the same status in the Dominions as

1. Fianna Fail (Dublin), April, 1933. Editorial; p. 4. Monthly Bulletin of the political party.

the King does in Great Britain. He represents the King rather than the British Government. From the very first the present Irish Government practised obstructionist tactics, not aimed at the person of the Governor-General, Mr. James McNeill, but at the office. The insult extended to the French Minister by two Irish Free State Ministers shortly after coming to office in 1932 because of his receiving the Governor-General with royal honours was one of several minor incidents intended to show the Government's disapproval of the office. An apology by the Government to the French Minister and the fact that one of the Ministers later joined in loyal messages to the King at the Ottawa Conference made it clear that the office of Governor-General as then constituted was under fire.

In November of 1932 the Governor-General resigned with the approval of His Majesty. The action was the result of De Valera's request to the King based on the Imperial Conference Agreement of 1930 permitting the Prime Minister of any Dominion to "advise" the King that the Governor-General should withdraw. The Irish Press commented,

Such institutions as the Governor-Generalship are an anachronism in modern democracies. In Ireland they are particularly unpopular because they, ever since their foundation, have been associated with the oppression of the people, and the denial by them of liberty makes them momentarily intolerable. 2

2. October 15, 1932 (Dublin). Editorial; p. 16. Newspaper controlled by Fianna Fail.

On November 25 the appointment as Governor-General of Mr. Donal Buckley, an ardent Republican who took part in the 1916 rebellion, was announced. The usual ceremony of a trip to London to kiss the King's hand on appointment has never been performed. The instrument containing the appointment was issued by the Secretary of the Executive Council rather than the Dominion office as it formerly had been. The Governor-General's customary speech was not delivered at the opening of the Dail.

Article 60 of the Constitution says that the salary of the Governor-General shall be the same as that payable in 1921 to the Governor-General of the Commonwealth of Australia, and a suitable provision made for his residence. Mr. Buckley annually returns to the treasury £8,000 of the £10,000 to which he is entitled. He was installed in an unpretentious villa and the Viceregal Lodge, former ostentatious residence of holders of the office was closed and plans begun to change it into a museum.

The Government had not asked a mandate from the people in the 1933 election to dispense with the office, as some feared its abolition meant a renewal of civil war. De Valera said he was determined to end the office as soon as possible. The Treaty and Constitution make it impossible but he intended to abolish it by depriving it of functions. Bills were prepared

to get rid of all duties.

On August 9, 1933, the Government introduced Constitution (Amendments 20, 21, and 22) Bills to remove the most important of the Crown's prerogatives and the right of appeal to the Privy Council. After a stormy session in both houses, they received assent on November 15. The object of Amendment 20 is to transfer to the Executive Council of the Free State the powers hitherto declared to belong to the Sovereign. It amends Article 37 of the Constitution which read:

Money shall not be appropriated by vote, resolution or law, unless the purpose of the appropriation has in the same session been recommended by a message from the Representative of the Crown acting on the advice of the Executive Council. 3

All words from the word "Representative" to the end of the article were removed and the words "Executive Council signed by the President of the Executive Council" inserted. The Executive Council now is able to approach the Dail without the intervention of the Governor-General.

Amendment 21 abolished the right of the Crown's representative to withhold royal assent. It deleted Article 41 of the Constitution.

Amendment 22 amended Article 66 of the Constitution and abolished the right of appeal to the Privy Council from the Supreme Court of the Irish Free State. The section of the

article deleted reads,

Provided that nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave. 4

Based on the rights gained by reason of the Statute of Westminster, arrangements were made with the Crown to relieve the Governor-General of the duty of receiving Ministers representing foreign States, and his signature in appointing foreign representatives was abolished and the signature of the President of the Executive Council was substituted. The late United States Minister to the Free State, Mr. M. McDowell, presented his letters of credence to De Valera instead of to the Governor-General.⁵ Credentials were nevertheless addressed to His Majesty. The Governor-General is now not allowed to fulfill any particular function, or to carry out the ordinary known duties of a King's representative.

In the House of Commons Mr. Thomas on November 14, 1933, declared that Bills 20, 21, and 22 were further repudiations of the obligations of the 1921 Treaty. As a member of the

4. Ibid. p. 23

5. See Mansergh, p. 150, Round Table, Vol. XXIV, 1934; pp. 373 and 595.

British Commonwealth under the Declarations of the 1926 Imperial Conference and under the 1931 Statute of Westminster he said that the Free State cannot renounce the responsibilities and hope to enjoy the privileges of Commonwealth membership. No provocative action was to be taken by the British Government.⁶

He is not supported in his view by Professor Keith who says the passage of the Amendments is "manifestly and undeniably within the powers of a Dominion...." ⁷

The passing of the prerogatives of the Governor-General was lamented by many. His office was thought to be reduced to a Gaelic rubber stamp. The Irish Republican Army objected, claiming that it adds insult to injury by calling the King's deputy a Gaelic name, Seanascal, and that now De Valera is acting as personal representative of the Crown. On the other hand,

"An admirable and badly needed center of social life, which could have linked all parties, classes, and religions together in loyalty to the national idea, and which could have been easily divested of all trace of class privilege or distinction" has been abolished.⁸

Some thought the bills were unnecessary. There is no great difference between action which the Governor-General is constitutionally bound to take on the advice of Ministers and the same action by those Ministers. The reservation of bills for the King's signature had become obsolete.

6. 281 H. of C. 5s. col. 726.

7. Round Table, Vol. XXIV, 1934, p. 371.

8. Studies, Vol. XXIV, (March, 1935), p.8.

The elimination of the right of appeal to the Privy Council was distasteful to the previous administration as well as the present and they had taken steps to have it removed. The right of appeal to the Privy Council is not in the Treaty and can be eliminated without abrogating it. There was dissatisfaction since 1922. Before the Act of Union of 1800 the highest judicial authority in Ireland had been the Irish House of Lords. Other Dominions, as colonies, accepted the jurisdiction of the Privy Council, and with the acceptance of Dominion status by the Free State the Irish were forced to give up their ancient prerogative. In the Dail it was claimed that Article 66 of the Constitution was not in the original draft Constitution taken to Britain in 1922. Preliminary draft Constitutions have not been made public. Darrell Figgis, a member of the Constitution Committee said,

There is, indeed, nothing that can be said in favor of such a provision, from the point of view either of justice, of law, or equity, or of harmony. If it be destined to remain, it is to be hoped that it will remain a dead letter. Otherwise it will lead to boundless friction and ill-will, internal and external. 9

During the debate on the Statute of Westminster in November of 1931 the question of appeal to the Privy Council was declared by the British Solicitor-General to be still unsettled.¹⁰

9. Darrel Figgis, The Irish Free State Constitution, Millifont Press, Ltd., Dublin, 1922; p. 56.

10. 259 H. of C. 5s. col. 1251-1252.

Lord Hailsham in the House of Lords on December 6, 1933 said the repeal of the right of appeal to the Judicial Committee of the Privy Council could be questioned by the Privy Council itself.¹¹

The importance of the amendment was recognized in that the whole Commonwealth was affected. A case was taken to the Privy Council and the Judicial Committee held that the above amendment was valid. Previous to the Statute of Westminster the Free State Parliament had not been competent to pass an Act abrogating the Treaty, but the Statute had removed the fetter which lay on that legislature by reason of the Colonial Laws Validity Act.

The end of appeal was regretted by the Protestant minority in the South. They said appeal protected minorities. Mansergh believes appeal was a trap that misdirected their energies.¹²

CITIZENSHIP AND ALIEN ACTS

Acts have been passed that extend the breach between the two countries. Another link with the British Government objectionable to all Republicans was the legal classification of the Irish as British subjects. The Irish had always resented being referred to as such. Under Irish law no Irish man, woman or child could legally claim Irish nationality. Many Irish

11. 90 H. of L., col. 337.

12. P. 327.

refused to register the births of children because they would be classified as British subjects. Lord Hailsham did not alleviate their dislike when he publicly stated in the House of Lords on May 11, 1933, that every citizen of the Irish Free State was born within the King's allegiance and no one born within the King's allegiance could get rid of that fact.¹³ The word "allegiance" was abhorrent to the Irish Republicans if it meant allegiance to an outside country.

The connection was broken by the passage of the Citizenship and Alien Acts. Besides enhancing the national pride, the Acts affected many other phases of Irish life. The Government launched an economic program devised to free Irish industry from British control and to assist the Irish to establish themselves in small businesses by limiting new enterprises to Irish citizens. It was hampered by the fact that the British capitalist as a member of the Commonwealth enjoyed certain privileges of common citizenship. The Government has found it necessary to introduce bills defining and limiting citizenship. Not only did industry make the bills necessary but many public interests were involved. The electoral system, entry into public service, and special privileges reserved for citizens would be affected.

13. 87 H. of L. 5s. col. 866.

The aim of the Citizenship Act¹⁴ is to avoid multiple nationality, which might be termed a considerable nuisance. It was introduced in the Dail on June 27, 1934, and received assent on April 10, 1935. Article three of the Constitution declares persons to be citizens of the Irish Free State who were born in Ireland prior to December 6, 1922. The new Act provides that natural born citizens born in Saorstát Éireann on or after December 6, 1922, or after the passing of the Act, are to be citizens. Also, every person born outside Saorstát Éireann after December 6, 1922 whose father was on the day of such person's birth a citizen of Saorstát Éireann, is to be regarded as a natural born citizen on compliance with certain formalities. Foreigners residing for five years in Saorstát Éireann may become citizens.

It provides that the British Nationality and Status of Aliens Act, 1914, and the British Nationality and Status of Aliens Act, 1918, if and so far as they respectively are or ever were in force in Saorstát Éireann, are repealed. The common law relating to British nationality, if and so far as it is or ever was, either wholly or in part, in force in Saorstát Éireann, ceases to have effect. The fact or events by reason of which a person is at any time a natural born citizen of

Saorstát Éireann shall not of themselves operate to confer on
 14. For a summary of this, see America, Vol.LII, (Nov. 17, 1934; Dec. 29, 1934, and Jan.12, 1935) pp.143, 286, and 340. Also, The Annual Register, p.119; Journal, Vol.XVI. (April, 1935) p.427.

such person any other citizenship or nationality. It abolishes the common citizenship between the Irish Free State and the Dominions of the British Commonwealth of Nations. The status of British citizens living in Saorstát Éireann is not disturbed, nor is that of Free State nationals living in the Commonwealth.

Sir J. McGarrell Hogg, K. C. in the House of Commons speaking as Attorney-General for England in 1922 said that an Irish subject may be both a British and an Irish subject.¹⁵

De Valera pointed out that the Irish cannot remove Acts from the British law books, nor can they prevent the British from calling them subjects of Britain but that,

... if there is any substance at all in principles that have been agreed upon at some of the Commonwealth Conferences, that when this bill becomes law it would be an impertinence if they [the British] were to claim as citizens of their country people who are obviously citizens of another country....¹⁶

Mr. Thomas holds the view that the Irish Free State has no power to deprive persons born in His Majesty's Dominions of status as British subjects. The British Government would take

15. 159 H. of C. 5s. col. 567.

16. Journal of the Parliaments of the Empire, Vol. XVI, (January, 1935) De Valera; p. 138. Issued under authority of the Empire Parliamentary Association, Westminster Hall, London. A summary of important legislation of all members of the Commonwealth. Hereinafter cited as Journal.

no measures to deprive Irish nationals of British citizenship.

The Alien Bill, introduced on November 14, 1934, and passed on April 10, 1935, further insures that national rights will be respected. It repeals the two British Acts of Parliament, the Aliens' Restrictions Act, 1914, and the Aliens' Restrictions (Amendment) Act, 1919, insofar as they relate to the Irish Free State. An alien is declared to be a person who is not a citizen of the Irish Free State. He is excluded by the Bill from public office or ownership of air-craft and ships. An order issued by the Executive Council on April 13, 1935, however, exempted citizens of all states within the British Commonwealth from the provisions of the Aliens' Act.

Constitution (Amendment 26) Act was introduced in Dail Eireann by De Valera and received assent on April 5, 1935. It was necessary to make effective the Citizenship and Alien Acts. Its object is to delete from Article three of the Constitution the following words, "... within the limits of the jurisdiction of the Irish Free State (Saorstat Eireann)..." Citizenship and nationality were extended to the nationals living in the North of Ireland who chose to accept it.

Another point of friction and debate is the presence of British ships in Irish ports. The Free State can remove clauses from the Constitution and the Treaty, but it is difficult for

them to remove British ships from the naval bases. Articles six and seven of the Treaty give England the right to use certain naval bases for a period of five years, at the end of which time a conference was to be held to decide to what extent the Free State would take over its own coastal defense. Such a conference was held in April of 1927 but no conclusions were reached. The conference was adjourned until a date to be determined later. The question has not been reopened. England still has soldiers stationed at Cobh. (Queenstown)

The Irish object to the use of the ports as Ireland would probably be exposed to attacks in case of war. De Valera said in the Dail on April 3, 1935,

We say that she has no fundamental rights to these ports, and that as long as she holds any portion of our country against the will of our people, no matter on what plea she holds it, so long will there be something standing between and preventing the good relations and the friendship that we desire....17

The Saorstat Government had many times assured Great Britain that the Irish would pledge themselves and use all their strength to see that Ireland as a free country would be no menace to the safety of Great Britain, and that Ireland was prepared to defend itself against any outsider who should attempt to strike at England through Ireland.

In a recent speech De Valera said a free Ireland in time of common risk could be only friendly, but an Ireland in subjection could be only hostile.¹⁸ Article seven of the Treaty menaced the possibility of permanent good relations.

The British view of Articles six and seven expressed by Winston Churchill is that in regard to the Navy, "...nothing has been conceded that was essential to the security of Great Britain."¹⁹ Padraic Colum, not in sympathy with the present government, points out that the harbors of all Scandinavian countries are under the control of the British Navy the minute war starts. The fact that it is written in a document does not make the position of Ireland worse than theirs.²⁰ It seems clear that Ireland never will be in a position to force the British out. If the ports are abdicated, it will be only with Great Britain's consent.

The military question is likewise bound up with the dispute between England and Ireland. The present government has not had occasion to violate Article eight of the Treaty. The Article provides that the military forces of the Free State should not exceed "in size such proportion of the military establishments

18. Bulletin of International News (June 13, 1935) p. 22. Vol. XI

19. Voice of Ireland, p. 17.

20. The Commonweal, Vol. XVII, Padraic Colum, (February 1, 1933) p. 376.

maintained in Great Britain as that which the population of Ireland bears to the population of Great Britain.²¹ The regular, territorial, and reserve forces of the British Government are still greater in proportion to the population than the Irish Army, even with the new Irish Volunteer force. Estimates for 1935 provided the following totals for the two countries.²²

Great Britain		Irish Free State	
Army and supp. reserve	129,973	Permanent force	6,379
Regular Army	209,754	Reserve	8,639
Territorial force	130,488	Volunteer force	20,000
Navy and air force	127,482		
	<u>597,697</u>		<u>35,018</u>

The population ratio is roughly, 15 to 1. If the Irish had occasion to increase their force, Article eight could be very easily deleted.

The curtailment of the powers of the Governor-General and the cancellation of the right of appeal to the Privy Council removed the principal limitations to complete sovereignty. Ireland, being the first member of the Commonwealth to legally define its own nationals, extended the breach between it and Great Britain. Legally, the Free State has broken the link. The effect of these moves has been checked, however, by the

21. See appendix, p. 131.

22. Statesman's Year Book, -1935, edited by M. Epstein, p. 39 et. passim.

presence of British ships in Irish ports. If Ireland could eliminate England completely in the matter of Governor-General, and port control, the symbols as well as the physical fact of British rule would be effaced.

CHAPTER V

CONSTITUTIONAL AND LEGISLATIVE BARRIERS: INTERNAL CHANGES

1

Statutory Changes

Two forces may be said to exist which attempt to prevent the complete realization of the Republic. Besides the foreign "enemy", an element in the Free State led by the opposition, which was the former government party, is not in favor of a Republic. Through past legislation and present activities, it has restricted the fulfillment of the wishes of the leaders. The former administration had passed certain legislation which embittered and kept alive old hatreds between the rival groups who participated in the Civil War. These Acts were attacked by the present government. They realized the necessity of alleviating bitterness, and have passed new legislation to correct what were considered injustices. Hindrances set up by the Cosgrave regime standing in the way of good will between republican and other factions have been removed. There were several sources of irritation between the Republicans and Free State sympathizers which must be discussed.

One of the sore spots was the Compensation Acts. They excepted from benefits those who either actually fought in the Civil War on the Republican side or through other means aided the Republican cause. Acts were passed providing wounds-pensions and disability pensions for men who were wounded during the

Black and Tan war and for members of the National Army who were wounded during the Civil War, and their dependents. Able-bodied men were given pensions if they joined the National Army after the Truce and fought the Republicans.

New Acts changed this. The Army Pensions Act, 1932

... would remove a great deal of bitterness and ill-feeling in the country....

... the responsibility for taking up arms against the State lay on the leaders and not on the rank and file.

... the main object of the Bill... is to provide pensions for disabled men.... who were previously prevented from having pensions because... they had taken up arms against the State....¹

The opposition said that it gave "... pensions and gratuities in recognition of hostilities against the de facto Government of the day."² Rewards were to be given to a section who rebelled against the majority.

A second point of irritation was the fact that people whose property had been destroyed in aiding the Republicans in the Civil War were not rewarded. The Damage to Property (Compensation) Amendment Act passed in 1933 enabled compensation to be paid to such persons.³

1. Parl. Debates, S. E., Vol. XVI, col. 2303.

2. Ibid. col. 88.

3. Ibid. D. E. Vol. XLVI, col. 1745 and Vol. XLVII, col. 715.

Another dissatisfaction over benefits was remedied with the Military Service Pensions Act, 1934.⁴ It provides remuneration for Irish Republic Army men broken in health and totally incapable of earning a living, and widows and orphans of Irish Republican Army men. It is also to be extended to widows and children and surviving disabled rebels of the Connaught Rangers who raised the flag of the Republic in India in 1920, and who mutinied.

Discriminations in the franchise put in by anti-Republicans have also been attacked. The strength of the Republican cause is with the young people. Universal manhood and womanhood suffrage for those twenty one years of age and over existed for national elections only. The Fianna Fail party did not have control of the municipal bodies, who through non-cooperation could block the Government program. The franchise in municipal elections extended only to rate payers.

The Local Government (Extension of Franchise) Bill, introduced in the Dail and passed by it on June 28, 1933, is intended to correct this.

The Bill extends local government franchise to every person who is a citizen of Saorstát Éireann who has attained the age of twenty one years and is not subject to legal incapacity....⁵

4. Fianna Fail: Bulletin, Vol. 1 (September, 1934) p. 3 and Vol. 11 (April, 1935) p. 8.
5. Parl. Debates, D. E., Vol. XLVII, col. 2303.

Its introduction brought a great amount of criticism for and against it in government circles and in the press. The government held that if a person is worthy to the extent that he can vote in national elections, he has the same right in local elections. The present system was outworn and based on a property franchise. The increase in revenue to municipal bodies from the central government gave the latter the right to extend the franchise to all those who contributed to the national tax. In 1922 and 1923 the amount of local revenue derived from the central government was 22.56%. The amount paid by the rate payers, the ones who had the local franchise, was 77.44%. The rate payers only, therefore, should have the vote. In 1928 and 1929 the amount paid by the National Exchequer increased to 37.7%. The tendency was to increase amounts from the national income. National electors, logically, should also be local electors. Mansergh says that this line of argument would exclude all those receiving relief.⁶

The opposition claimed that the Bill would introduce a system of federal government not immediately, but ultimately. It would lead to demands by local boards for local autonomy in matters other than those now within the jurisdiction of local authorities. In a small country, it is unnecessary. The Bill

was a political move, the purpose being to enlarge the franchise in the coming County Council elections (June, 1934). The Fianna Fail had no chance under the old regime.

The old question of universal versus restricted suffrage was once again given an airing. One author thinks that universal suffrage, one man, one vote, is the subordination of knowledge and experience to ignorance and inexperience. Adult suffrage is the fruit of industrial society, unsuited to Ireland.⁷ Another says the quality and suitability of the representatives rather than altering equal and universal suffrage is desirable.⁸

Again,

In this country 'majority rule' is generally defended rather as an empirical principle, which has the advantage that it works, than as a logical or philosophical doctrine. Its working, however, has admittedly been fairly imperfect, and no one can honestly say that it draws out what is best in the nation.⁹

...[Suffrage] has been extended to the utmost limit, unless children and certified lunatics are to be added to the register.¹⁰

The last writer, an Irishman, thinks the least stable and responsible section of the people that least appreciate econom-

7. John H. Horgan, "The Problems of Government". Studies Vol. XXII, 1933; p. 538.

8. Ibid., quoting Wm. Cosgrave, p. 552.

9. Michael Tierney, "Ireland and the Reform of Democracy". Studies, Vol. XXIII, 1934; pp. 369-82.

10. Hugh Law, "Retrospect and Prospect". Contemporary Review, Vol. CXLIV, (December, 1933) p. 696.

ic argument and are most susceptible to political rhetoric won the January, 1933 election. He blames Lloyd George for extending the national franchise.

The Senate rejected the Extension of Franchise Bill on July 12, 1933. When, during the campaigning for the local elections the next year, General O'Duffy, the Government's opponent claimed it was a good idea, the Government reintroduced the Bill in the Senate. That body again rejected it, yet in the spring of 1935 the Bill became an Act.

The intense opposition by the minority opened the Fianna Fail Government to the criticism that it had lost the support of the majority. The County Council elections held in June of 1934 offer a clue to the opinion of the country. Rate Payers, persons of either sex who are of full age and have during a qualifying period occupied as owners or tenants any land or premises in the area, except premises let as furnished lodging, were the only voters. Seven hundred thousand who vote in national elections did not have the franchise. The result showed increased support of Fianna Fail. Fifteen of the twenty three County Councils were won by them. They had only one in 1928. The surprising thing is that those who had the right to vote were these affected adversely by the trade war.

The franchise was next attacked in Dublin, which has al-

ways been anti-Republican and the stronghold of the British Government in Ireland. The Lord Mayor of Dublin, Alfred Byrne, promoted the scheme to form a coalition of the old Farmer party with Cosgrave's. In the 1933 election, Fianna Fail was defeated in Dublin and in June, 1934, Alfred Byrne was re-elected Lord Mayor.

Fianna Fail attacked the city by means of two Bills, the Local Government (Dublin) Act and the Constitution (Amendment 23) Bill. The first was passed by the Dail on June 7, 1933, was rejected by the Senate on June 14, but despite early opposition, became a law in the Spring of 1935. It abolished the Commercial Franchise Act which gave special representation to business people possessing offices or commercial concerns in Dublin but who did not live there.

The Government held that the Commercial Franchise bore the stigma of plutocracy, and its abolition would restore to the ordinary local government electors of Dublin County Borough complete control of the municipality. Minorities in Dublin would receive their fair degree of representation through the use of proportional representation. The business register made it possible for business men to become elected with very little campaigning. The whole system of democratic government is founded on the theory that reason will ultimately prevail if

people are given responsibility. The Commercial Register compiled in 1930 was a vicious effort to restore the old ascendancy on the necks of the Dublin citizens.

There is an old saying that a limited liability company is a thing without a body to be kicked or a soul to be saved. We want in the municipal life representatives with bodies that can be kicked and souls that can be saved. 11

This is our first advance towards the democratic control of the city, control by those who have to pay the rates. 12

The opposition asserted that business interests, being too busy, cannot engage in politics, and that therefore they are unrepresented. One-third of the rates in the city are from people who, living outside of Dublin, under the new Act, would have no direct representation in the administration of the city.

The second Bill aimed at Dublin affecting the franchise is the Constitution (Amendment 23) Bill, introduced in the Dail on February 15, 1934, and passed by them on July 5, 1934. It was rejected by the Senate, but may become a law after twenty months in the Spring of 1936. Dublin is the seat of two Universities, Dublin University, founded by Queen Elizabeth and the National University, founded in 1908. Article 27 of

11. Parl. Debates, D. E., Vol. XLVII, col. 1082.

12. Ibid., col. 1073.

the Constitution entitles each University in the Free State to elect three representatives to the Dail.

The purpose of the Constitution (Amendment 23) Bill is to abolish the separate representation. Article 27 is to be deleted from the Constitution.

The Government pointed out that the average of electors for the whole country is one deputy to every 11,699 electors. The average for Dublin University is 1 for each 1,087 and for the National University, 1 for each 1,552. There is no clear evidence that this particular interest, University representation, is of peculiar national importance. Nothing in political thought had emerged from Trinity College (Dublin University) which with a few exceptions cast credit on the nation as a whole. Invariably it had produced anti-Irish political leaders. It stood today, as when founded, for the Elizabethan idea and imperialism. Both Universities were not making their proper contribution to national progress, especially in the revival of the language. If special representation were to be given, it would be better to choose those who had attained proficiency in special walks of life. Other organizations may claim the right: commercial, educational, or industrial.

Senator, the Right Honorable Andrew Jameson said he was consulted in 1921 the day after the Treaty was signed. Griffith,

Collins and O'Higgins, the Irish group, held that minorities should have special means to represent their views. Mr. Jameson says elimination of University representation violated the wishes of the three men. ¹³

It meant, the opposition further held, the destruction of the keenest and best criticism of De Valera's regime. It is a return to the simple and violent ideology of the revolution which denied social value to anything but mere number.

2

THE SENATE

Stronger than the limited franchise in guarding anti-Republican interests is the Senate. Its obstructionist tactics decided the Government to attack it. It was felt to be an unnecessary expense to the country. Instructions in 1922 were given to the Constitutional Committee of seven to create a second chamber. Mr. Kennedy, Chief Justice of the Irish Free State wrote in 1928,

They were told that the terms of the pledges given to the minorities as to securing fair play for them in the new State were regarded as creating an honourable obligation to adopt a bi-cameral form of legislature though it should be a democratic type. ¹⁴

Article 30 of the Constitution states that the Senate

13. Journal, Vol. XV, 1934, p. 950.

14. Hugh Kennedy, "Character and Sources of the Constitution of the Irish Free State". American Bar Association Journal Vol. XLV, 1928, p. 43.

shall be composed of citizens who shall be proposed on the grounds that they did honour to the nation. The method of choosing its members has been radically changed since 1922. Three methods have been tried, nomination by the Executive, direct election, and indirect election by both chambers. The second method had to be abandoned, as only one-fourth of the people voted. Its term was shortened to nine years but the period it could hold up a bill was lengthened from 270 days to a maximum of twenty months.

At first it was thought that shortening the duration of the power of the Senate which had been proved to contain elements too recalcitrant and irreconcilable to sustain the interests of the country would be sufficient. The Government introduced a Constitution (Amendment 19) Bill in June of 1933 to shorten the period the Senate could hold up legislation to three months. This, with the additional sixty days required would make the total maximum period five months. It was passed by the Dail but the Senate added an amendment to postpone consideration of the Bill and appointed a Joint Committee to investigate any changes necessary in the Senate.

The new Government was in power less than a year when a member of the Senate proposed the motion "that the Senate is of the opinion that it is time for the Government to return to a

policy of love for Ireland instead of hatred for England".¹⁵ By the end of the debate on the motion no quorum was present. The Senate continued its criticism of the Dail. The following year, on August 22, a member of the Senate introduced a resolution "that the Seanad is of the opinion that the recent actions of the Executive Council [refusal to allow a Blue Shirt parade] purporting to be for the preservation of public peace and order, have not been justified".¹⁶ The resolution was later withdrawn. This, with the refusal of the Senate to pass the Wearing of Uniforms Bill, culminated in the Constitution (Amendment 24) Bill passed by the Dail on May 25, 1934. It was rejected by the Senate on June 1. It may become a law in December of 1935. The Bill amends Article 12 of the Constitution. It provides for the elimination of Saorstát Éireann as a Constituent House and makes all such further or other amendments of the Constitution as may be necessary by such amendment of Article 12. Sixteen clauses of the Constitution are wiped out and several more amended.

The Government's contentions are that no really useful function is performed by the Senate. It is an expense of £40,000

15. Parl. Debates, S. E., Vol. XVI, col. 152.

16. Ibid., Vol. XVII, col. 1117.

a year and is not representative of the nation. The final responsibility for law and order rests with the Executive. The second Chamber had acted in a partisan way and made no attempt in the twelve years of its existence to stop legislation of the Dail obnoxious to the people. Therefore it is no real check as it is supposed to be. Witness the Public Safety Act of 1931,¹⁷ presented to the Senate on Friday and passed on Saturday. In the Cosgrave regime only three bills were rejected. In the short period of the new administration it had held up four bills already. The only time it resisted the Dail strenuously was on the oath to the King. Revision of legislation could be done in a simpler and less costly manner. It was an accident, not necessary to representative government. Artificial checks were unnatural and encouraged the use of unconstitutional means. The idea of a venerable Senate composed of wise men unaffected by ordinary political passions was never approached in modern times. Proportional representation was a more effective safeguard against violent changes than a second Chamber.

The party organ of Fianna Fail stated that instead of doing honour to the nation, the Senate had done dishonour because it was responsible for the emigration and national ruin of the country. The Senate was composed of a secret united powerful

17. See page 22.

band of privileged subsidized English agents against whom Cosgrave was powerless, once they were seated.¹⁸

The opposition claimed that a single chamber government would lead to dictatorship of the left. Regarding De Valera's statement of blocking legislation, Mr. Douglas pointed out that of 376 bills since 1922, the Senate had passed 239 without change, amended 132, and that only 34 of its amendments had not been accepted by the Dail.¹⁹ The Government had refused to take advantage of a resolution setting up a Joint Committee to consider necessary changes. The leaders of Fianna Fail did not enter the Senate until 1927. They could have helped pick 30 members in 1922 if they had not been leading a revolution. If abolished, any bill could be passed and made law within a few hours. Proportional representation pushes the individual more and more out of politics and is no guarantee for minorities. Although the Judiciary are appointed for life on good behaviour, they can be removed at the present on an address from both Houses. With the abolition of the Senate, judges will be removable on the vote of the Dail alone.

The press is divided in opinion. In 1929 Andrew Malone wrote, "The Senate is now as closely subject to the party whips

18. Fianna Fail, op. cit.; Vol. 1, No. 3.

19. Parl. Debates, S. E., Vol. XVII, col. 11-12.

as the other house." 20

The Round Table asserted,

The triennial election to the Senate, which took place in December [1931] proves that this institution has now become little more than a political waste paper basket in which each party is gently depositing its hangers-on. 21

Mansergh mentions that the Dail in 1932-33 agreed to 246 amendments out of 272 proposed by the Senate. The unicameral system used by the first and second Dail was more in accord with republican tradition but the dogma was generally accepted that a well-framed constitution should contain some checks on the popularly elected assembly. The manner of abolishing the initiative and referendum in 1928 is proof. On the other hand, twenty months is long enough to stultify a government program, and the refusal to pass the Oath Bill after the 1933 election opens the Senate to the criticism of hindering the popular will. The adoption of the Norwegian system is suggested as a solution. Both houses are elected at the same time. The same political party would gain control in both, making the upper house a revising body. 22

20. op. cit., p. 377.

21. Round Table, Vol. XXII; 1932, p. 377.

22. p. 98 et passim.

To counteract the Government's move the Seanad on May 9, 1934, introduced the Constitution (Amendment 25) Bill to restore the referendum on amendments to the Constitution immediately. Now it may not be used until 1938. The validity of the amendment of 1928 extending the period is doubted by the Senate, although passed by them. The Bill was not approved by the Dail.

The Senate elections of December 1934 may change the plans of the Government. It is now within one vote of gaining control of that body. The deciding vote of the acting chairman, a member of the opposition, prevented the Government party from electing a permanent chairman to the Senate. The following table shows the increase of Fianna Fail strength.²³

1931 Returns		1934 Returns	
anti-Government		pro-Government	
Fianna Fail	12	Fianna Fail	19
Labour	6	Labour	7
Independents	4	Independents	3
	<u>22</u>		<u>29</u>
pro-Government		anti-Government	
Cumann na nGaedheal	23	Cumann na nGaedheal	21
Farmer	2	Farmer	4
Independents	13	Independents	6
	<u>38</u>		<u>31</u>

The Government may decide that the Senate Bill is inopportune. Yet in April of this year, the Bill to limit the time of

23. Figures taken from America, Vol. LII; 1934, p. 239; Mansergh, p. 100; and Political Handbook of the World, 1935, edited by Walter H. Mallery, p. 102.

holding up legislation to three months was reintroduced in the Dail and again rejected by the Senate by one vote. Despite this opposition it became a law. The Government announced that it intends, when the time comes, to reintroduce Amendment 24 which will abolish the Senate.

Thus, the anti-Republican group in the Free State has been successfully curbed by the passage of new Compensation Acts adjusting grievances against Republicans, the extension of the franchise in municipal elections and its limitation in Dublin, together with the proposed Senate abolition. The attempt of the opposition to wrest control from the Government party under the Blue Shirts in 1933 was short lived. They are still active but ineffective. With the removal of class restrictions and privileges, the Irish people will be in a position for the first time through the franchise to indicate the type of government they desire.

3

THE CONSTITUTION

Even with the extensive scope of the amendments and the legislative acts the Government has decided that the Constitution itself is unsatisfactory. Legal experts are now working on a document that will be Irish from top to bottom. Dissatisfaction has been felt from the adoption of the present one in

1922. The following quotations indicate the English origin of the Free State Constitution.

There is not a native Irish idea in the Free State Constitution; all is foreign, held there at bayonet-point until an electorate unmenaced from without changes it into something "kindly Irish of the Irish, neither Saxon nor Italian". 24

... The law of the Irish Free State is based on the Common and Statute Law which was in force in Ireland when the Constitution was promulgated. 25

Wherever British colonists have gone and settled and laid the foundations of new nations, they have carried with them British traditions, British institutions, British constitutional theories, and, above all, their admired Common Law, and these were the inheritance which they handed on to the Dominions that sprang from their loins. In Ireland, however, these things were for centuries the possession of an alien ascendancy and had no roots in the heart of the Irish people who had their own traditions and their own laws which they were forbidden to enjoy while denied at the same time the benefit of the alien institutions... And it must be remembered that if we mean by "Common Law" customary unwritten law only, that law which is the product of the daily lives and habits and settled practice of a community and, therefore, their natural law, so to speak, English Common Law was never "Common Law" in that sense among the Irishry. Here we have the clue to the refusal to recognize in constitutional matters legal fictions which the English legal genius has made the cover for the growth and development of the Common Law... 26

24. The Irish Review, Vol. 1, July, 1934; Editorial, p. 3. Joseph Campbell, Editor, "A magazine of Irish expression". Ceased publication after the second number.
25. Mansergh, p. 306.
26. Hugh Kennedy, op. cit., p. 440.

Although the Irish Free State is a new State it considers itself old, with a history and tradition, a common law and racial identity different from the British. Disapproval of the British legal system was expressed by the adoption of a Constitution by the first Dail in 1919. According to it, decisions could be based on early Irish law codes, the Code Napoleon, and the Corpus Juris Civilis or works in Roman Law. The citation from all legal text books published in Great Britain was prohibited. With the adoption of the present Constitution the Dail courts provided in the revolutionary Constitution were abolished.

The present Constitution was drawn up by the Constitutional Committee appointed by the provisional Government. The Committee was told to report to the Provisional Government at the end of a month. The result shows the mark of the Anglo-Irish rather than the Celt. The active committee of seven consisted of three members of the Irish bar in actual practice, a man who had attained a position as administrator in the British Civil Service abroad, and a merchant in an old firm in Dublin, long the city of the ascendancy. An American writes of the Constitution that,

... its structural design is that of a limited monarchy, but its tenor is essentially republican...internal structure exhibits the charac-

teristic features of the British system, ... devices indicate the influence of foreign models. 27

The Irish Constitution shows the influence of a number of national Constitutions, principally those of the United States, the new German Constitution of 1919, the unwritten Constitution of Great Britain, and the Swiss.

The British had insisted on certain guarantees and the final draft was shown to them, as of favor rather than of right. Several preliminary drafts have never been published. The contents of the final draft were published the night before the election held to decide on its approval or rejection.

The Constitution provides for a legislature composed of two houses. The executive authority vested in the King is exercisable by the representative of the Crown, the Governor-General. The Executive Council is an aid to the Government and is responsible to the Lower House. The President of the Executive Council is chosen by the Lower House instead of being nominated by the head of the State, as in Great Britain. He chooses the Ministers with the consent of the Dail. He cannot dissolve the Dail if he has been defeated in a vote in the Dail.

The idea of an independent Judiciary was established. Judges

27. Leo Kohn, The Constitution of the Irish Free State, Allen and Unwin, London, 1932; p. 13. This is the best work written on the Free State Constitution.

are appointed by the Governor-General acting on advice of the Executive Council.

Several innovations were inserted. Proportional representation has proved very successful. The position of the "extern minister", modeled after the Swiss executive, a Minister not a member of the Executive Council but chosen by the Dail and responsible to it, did not develop as expected. Extern ministers not always in touch or sympathy with the Minister for Finance caused difficulty. Although not abolished completely, the office is not used. The initiative and referendum were deleted from the Constitution before they were used. Grand Juries were not incorporated. Indictment is preferred directly to the jury that tries the case. Formerly the Grand Juries were drawn from the Unionist classes.

The suggestion that vocational or functional councils were to be established is made but not put in practice. Darrell Figgis believed they were necessary. They could be required, according to him, to render account on the one hand to the vocation which they represented, and on the other, to the State on behalf of that function. Organizations of social and economic life were thought to be as necessary as provisions for the rights, as citizens, of individuals.²⁸ The "brehons" or lawgivers and the "seanchaidhi" or recorders of ancient Ireland

were the inspiration for the vocational councils. One writer believes, however, that there is no permanency in any Government based on vocational representation. That form sets class against class. ²⁹

The speed with which the Constitution was drawn up has necessitated many changes since its adoption. The Oireachtas had a right to amend it without referendum for the first eight years. This was later extended to sixteen. The former administration added seventeen amendments in a period of ten years. Malone in 1929 wrote that he believed the power to amend without consulting the people had been used unwisely and was partisan in origin. Behind the amendments is the suggestion that Parliament may decide to amend the Constitution in perpetuity without consulting the people. He pointed out that,

As things are, if Mr. de Valera assumed office he could plunge the country into chaos within twenty-four hours without being unconstitutional or doing anything unprecedented. ³⁰

The plan of the Government to eventually submit a new Constitution has brought out many suggestions as to the best type for the Irish people. In a series of articles entitled "The Problem of Government" appearing in Studies the conservative point of view is expressed. ³¹ Michael Tierney says that the

29. Studies, Vol. XXII, 1933, p. 559.

30. Op. cit. See pp. 363-77.

31. Vol. XXII, 1933; pp. 537-60.

present method of legislation is based on the cumbersome traditional system of Great Britain and that it could be speeded up. The Executive should be divorced from Parliament, with the exception of his election, thus making him independent of Parliament, which is a shield for bureaucracy. He questions the value of proportional representation, generally thought to be the best safeguard for minorities. John Horgan in the same series also says the Executive should be divorced from the party system. Michael Comyn disagrees with both,

In this country... the government which endures is that which rests on the will of free men... Dictatorship is impossible because of the deep sense of personal freedom. 32

He goes on to say that changing Constitutions is like removing foundation stones from a house; the older the house, the more dangerous is the experiment.

Mr. Kennedy recognizes the fact that the Constitution has deficiencies but on the whole approves of it. He writes,

To adopt the poet's modest claim, it may be a poor thing, but it is all our own, and as such we assert its authority and claim upon our people. 33

The Fianna Fail Government disagrees with him. No indication has been given that any extensive change will be made before the next general election. De Valera refuses to act without a mandate from the people. It remains to be seen what type

32. Ibid., p. 557.

33. Kennedy, op. cit., p. 445.

of Constitution the Government aims to substitute. It is fairly safe to assume that all references tying the country to Great Britain will be eliminated. The substitution of a new Constitution would end the pretense of the validity of the Treaty.

Thus in a period of three years, the Irish group in favor of a close connection with Great Britain have seen all the guarantees removed which favored that connection. Devices set up to protect their interests, such as money awards to British sympathizers, a restricted franchise to the propertied groups, and special representation to the anti-Republican element have either been abolished or will be in the near future. They have seen the external forms of the connection vanish also. The multiplicity of changes makes a new governmental framework imperative.

CHAPTER VI

PARTITION

The progress towards a Republic is thwarted by partition, "the running sore of Ireland". No satisfactory solution to the Anglo-Irish question is possible until the sections into which Ireland has been divided are welded together.

A study of the history of partition puts England on the defensive for what some consider her worst Irish crime. It was the answer to the declaration of a Republic by the left wing of the Nationalists. Lord Carson, dissatisfied with the safeguards for minorities in the Home Rule Bill of 1914 thought he could defeat it by concentrating on Ulster. When he saw this to be impossible he adopted the policy of force with the subsequent mutiny of the British Army when sent against him. The refusal of the British Government to punish the North and to stop the gun-running there proved to the Nationalists that outside aid was the only chance they had. The attempt by the British to stop gun-running in the South further substantiated this viewpoint. Ireland repudiated John Redmond's parliamentary policy in the 1918 elections when 73 out of 105 delegates pledged not to enter the British Parliament were returned in the First Dail.

In 1912 when legal partition was first mentioned during a debate on the Home Rule Bill in the House of Commons, an amendment to exclude certain counties was tabled. Mr. Asquith on

that occasion said, "You can no more split Ireland into parts than you can split England or Scotland into parts".¹ He expressed the opinion that Ireland possessed a fundamental unity of race, temperament and tradition.

David Lloyd George has been accused of promising the Nationalists terms which he assured the Orangemen he had no intention of granting. Recent publication of the correspondence of John Redmond,² and Sir Edward Carson's explanations of proposals offered Ulster by Lloyd George³ bear this out. He is also accused of promising Arthur Griffith and Michael Collins that if the South signed the Treaty, the North, if it refused to enter, would be forced to give up those areas in which a majority of the inhabitants desired to remain with the South. Document Number Two is said to have contained the partition clause with the same understanding.⁴

In an article entitled "Some Thoughts on Partition" appearing in Studies, Aodh de Blacam holds that in Parliament Lloyd George made it clear that he had promised Fermanagh and Tyrone to the South. Blacam quotes Lloyd George as having said,

1. 39 H. of C. 5s. col. 787.

2. Denis Gwynn, The Life of John Redmond, Geo. Harrup & Co., 1932, London; p. 552 et. passim.

3. Ronald McNeill, Ulster's Stand for Union, John Murray, London, 1922; p. 246 et seq.

4. Interview by De Valera to a special correspondent, cited by The Irish Press (Dublin) April 15, p. 7.

There is no doubt that since the Act of 1920 the majority of the people of two counties prefer to be with their southern neighbors to being under the Northern Parliament.... Though I am against the coercion of Ulster, I do not believe in Ulster coercing others. 5

Lloyd George repudiated this later in Parliament.

The Boundary Commission which was to draw the line according to the wishes of the inhabitants added insult to injury from the point of view of the Free State. Article 12 of the Treaty provided for a Commission of three. The Commission was boycotted by the North.

The Chairman of the Commission which met in 1925 was Mr. Justice Feetham, English born. Professor MacNeill, Ulsterman by birth, was appointed by the Irish Free State. A special Act enabling the British Government to appoint Mr. Fisher, born in Ulster, was passed. Mr. Fisher substituted for the Northern delegate. The London Morning Post published a rumor that the decision of the Commission would fall far short of Nationalist hopes. 6

When it became known, according to the Morning Post, that the Commission proposed transferring Irish Free State territory to Ulster, a strong reaction was felt in the South. Professor MacNeill resigned. Mr. Cosgrave negotiated with the British Government and an agreement was signed on December 3, 1925, whereby the Boundary was left alone and in exchange the Irish liability for the national debt of the United Kingdom as of 5. December, 1934; Vol. XXIII, p. 568.
6. November 7, 1925; special article, p. 13.

provided in Article 5 of the Treaty was cancelled. The provisions of the Treaty relating to a Council of Ireland were also cancelled. The South considered the rumoured findings a betrayal of Irish trust; two Englishmen against one Irishman. The recommendations of the Boundary Commission were never published. Denis Gwynn, mentioning this fact, said the claims asserted by the Irish Free State would have brought discredit on them, and their arguments were half-hearted. ⁷

The claims of the Ulsterman for division are based on political, racial, economic, and religious differences with the South. Sean Milroy presents an analysis of the Northern claims from the Free State point of view in a book entitled The Case of Ulster. Politically or historically, the six counties were never an administrative unit. Cavan, Donegal, and Monaghan had always been a part of Ulster until 1920. A local election in 1922 showed that of the total acreage of the six counties, people in 1,260,524 were against partition and people occupying 1,382,094 were for it. ⁸ Today South Down, East Down before it was gerrymandered, the Counties of Tyrone and Fermanagh, and the city of Derry all bordering on the Free State are claimed to have a majority in favor of Unity.

Racial antipathy of the Ulsterman to the Celt is based on

7. Irish Free State, p. 12.

8. The Talbot Press, Dublin, 1922; p. 19. See also Handbook of the Ulster Question, issued by the North East Boundary Bureau, Dublin, Stationery Office, 1923.

the belief that the Celt has some curious fault in his makeup and that he is "without law". The refusal of the Celt to recognize legal fictions of the British Common Law has caused misunderstanding. The Northerner is supported in his belief by that section of the English people who either for selfish motives or for lack of knowledge fail to comprehend the Celtic viewpoint.⁹ The Ulsterman himself is essentially Irish in the process of merging. The prolific Celt absorbed wave after wave of invader and will eventually absorb the Scotch-Irish. At one time an attempt was made by the British Government to stop the absorption of the Anglo-Saxon by the Celt by refusing to allow inter-marriage or association between the two races. The Ulsterman's forefathers followed Wolfe Tone who founded the United Irishmen, the purpose of which was,

To unite the whole people of Ireland, to abolish the memory of all past dissensions, and to substitute the common name of Irishman in place of the denominations of Protestant, Catholic, and Dissenter.¹⁰

The Ulsterman still points with pride to the names of his great-grandfathers who were "out" in the '98 uprising.¹¹

9. Studies, Vol. XXIV, (March, 1935) p. 1.

10. Theobald Wolfe Tone, Memoirs, edited by his son; Vol. 1, Henry Colburn, London, 1837; p. 64.

11. Round Table, Vol. XXV, (March, 1935) Anonymous; written by "an Ulster Protestant", p. 254.

The support of the present economic system in the North, which is in direct contrast to the policy of self-sufficiency in the South, is due to the conviction of the superiority of a free market as opposed to the closed market of the South. The North asserted that the closed market is condemned by practically every economist and statesman as the cause of world depression. Their whole economic life is bound up with that of Great Britain. The wealth and industrialization of the province, however, are contested by Milroy. The fertile valleys of central Ireland have produced more wealth than the North. The rural population of the six Counties in 1922 was 828,774 while the town population was 623,442. Leinster figures for the same period show it to be more urban.¹²

In support of the non-industrial character of Ulster, an Ulsterman, Mr. Pollock, Minister in the North of Ireland Parliament said in the early part of this year, "In common with most other countries, agriculture is the most important industry of the Province."¹³

Denis Ireland holds that the coal importers of England were the deciding factor in partition. Elections in Ulster are tied up with the English coal trade. The coal importers keep in close touch with the Government and the feudal influence of aristocratic coal-owning families is still felt. The recent

12. Op. cit., p. 22 et seq.

13. Special article in The Christian Science Monitor (Boston) February 6, 1935; p. 2.

industrial expansion in the South has aroused jealousy and a refusal to follow its example. Coal development in Tyrone is blocked by the coal importers, backed by the Ulster Unionists and Anglo-Irish coal owning families. If developed, the importation of English miners would cause the formation of a labour party in Ulster which in conjunction with the Nationalists would upset the Ulster Protestant majority. Vested interests are disguised as intellectual convictions.¹⁴

The greatest stumbling block keeping the two sections apart is the animosity of the North on the grounds of religion. It is a result of the British policy of divide and conquer. Friendliness and a desire to help the Catholics were demonstrated many times by the Protestants of Ulster before the English conducted a concentrated drive to alienate the two.

A convention of Ulster Protestants passed the following resolution in 1782,

Resolved, that we hold the right of private judgment in matters of religion to be equally sacred in others as well as ourselves, that we rejoice in the relaxation of the Penal Laws against our Roman Catholic fellow-subjects....¹⁵

D. J. Owen in his History of Belfast wrote that in 1784

14. Ulster Today and Tomorrow: Day to day pamphlet, Number 6, 1931; passim., Hogarth, Dublin.
15. Cited by the Handbook of the Ulster Question, p. 42.

the Protestant Volunteers of Belfast in order to help Catholic emancipation, marched to church and donated to a huge collection to build a new "Mass House".¹⁶

Later, in 1791, the Belfast Protestant Volunteers celebrated the success of the French Revolution and in the course of an address to the National Assembly, said,

We, too, have a country, and we hold it very dear; so dear to us its interest that we wish all civil and religious intolerance annihilated in the land; so dear to us its honour that we wish an eternal stop to the traffic of public liberty which is bought by one and sold to another; so dear to us its freedom that we wish for nothing so much as a real representative of the national will, the surest guide and guardian of national happiness.¹⁷

The Society of United Irishmen pledged themselves to support the resolution, "That no reform is practicable, efficacious, or just, which shall not include Irishmen of every religious persuasion".¹⁸

The Society addressed the following requisition in January of 1792 to citizens of Belfast,

Gentlemen, -As men, and as Irishmen, we have long lamented the degrading state of slavery and oppression in which the great majority of our countrymen, the Roman Catholics, are held-... We anxiously wish to see the day when Catholics and Protestants ... shall be cordially united and shall learn to look upon each other as brethren.¹⁹

16. Cited by Denis Ireland; op. cit., passim.

17. Cited by Handbook of the Ulster Question, p. 42.

18. R. R. Madden, The United Irishmen, Their Lives and Times; J. Madden & Co., London, 1848; p. 182. Vol. I.

19. Ibid.

In October of the same year the Society agreed to a declaration that,

... we abhor the idea of withholding from our Roman Catholic brethren their civil and religious rights,..
..We are persuaded that the religion of any man, and his politics, are not necessarily connected. 20

Wolfe Tone wrote in a memorial delivered to the French Government in February, 1796,

... that they [the Protestants] saw that whilst they thought they were the masters of the Catholics, they were, in fact, but their gaolers.... They saw at once that the only guide to liberty was justice. 21

The peaceful union of the spirit of the North and South was symbolized in the adoption of the orange and green flag with the white in the middle. One historian thinks, however, that Wolfe Tone's Memoirs show that the union of spirit was artificial. 22

The writings of Dean Swift, the Protestant Dean of St. Patrick's Cathedral in Dublin, drew the following statement from Archbishop Boulter, "The worst of this is that it tends to unite Protestant and Papist, and when that happens, goodbye to the English interest in Ireland forever". 23

The British had always been able to suppress if not eradicate the national aspirations of the natives, but with the

20. Ibid., p. 202.

21. Memoirs, op. cit., Vol. 11, p. 431.

22. Madden, p. 31. Vol. I

23. Milroy, p. 45.

Anglo-Irish adding his forces to those of the Celt, different tactics were adopted. Milroy mentions that,

Lord Northington, the English Viceroy of Ireland, in his own correspondence, describes how he set about, in underhand ways, to stir up dissension and confusion among the Volunteers on the issue of religious liberty....²⁴

The failure of the '98 uprising and the success of the policy of dissension resulted in the Union of Ireland with England in 1800, accepted by the North, according to a present day Ulster Protestant, because,

... the people were weary of the activities of secret societies, quickly suppressed and as soon reborn... and they wanted peace and quiet to get on with the ordinary business of life. That desire they were most likely to gain under the strong hand of Great Britain- they hoped for the Pax Brittanica. ²⁵

The same author points to Scotland as an argument in favor of union. The Southerner points out that Scotland contributed an English King and Wales, a Prince. Ireland had not been honored in any such way.

To keep the hold gained, the Ulsterman today is taught that his history begins with the Union of 1800. He is a West Briton forced through no fault of his own to live away from his native land, thinking in terms of an Englishman on Irish soil.

24. Ibid., p. 47.

25. Round Table, Vol. XXV, (March, 1935) p. 254.

In support of this view, an Ulsterite says,

It seems worth while to consider how a sentiment in favor of the 'English connection,' so deeply rooted that it has become the cardinal rule of faith and mainspring of the political thought of the Ulster Protestant should have arisen and should have gained such strength. To do that, one must review the history of the Ulster colony, not perhaps as documentary evidence might set it forth but as the Ulsterman believes it to be. 26

George Bernard Shaw thinks "it is the essential dishonour of their position as a foreign garrison where they are not foreigners that makes the position of the Orangeman so impossible".²⁷

All indications point to the continued success of the policy. Religious intolerance in Ulster is still rife among the governing group. The Ulsterman takes the stand that every Catholic, as such, is hampered for economic life and for the work of the citizen. The success of the Free State has not led him to change his mind.

The Ulster Protestant (Newspaper) of October, 1934, printed in huge type, "While there is one Romanist in a Protestant job our duty remains undone".²⁸

The following quotations appearing in an article on the subject make the situation appear hopeless,

I have 109 officials, and so far as I know there are four Roman Catholics... whom I had to take

26. Ibid., p. 251.

27. Cited by Denis Ireland, Ulster Today and Tomorrow, passim.

28. Cited in Studies, Vol. XXIII, 1934; p. 572.

when we began. 29

Many in the audience employ Catholics, but, I have not one about my place. 30

Following a report that 28 porters at Stormont were Catholics, I have investigated the matter, and I have found that there are thirty Protestants and only one Roman Catholic there only temporarily. 31

Two incidents recently have once again brought the attention of outsiders to the "running sore of Ireland". The stoning of the trains returning from Dublin to Belfast by Protestants after the Eucharistic Congress in 1932, and the riots in the summer of this year in the North are both due to a faulty system of collective human relations. The first instance brought the following unfavorable criticism from the Protestant press.

The Irish Christian Advocate of Belfast, a staunch Protestant weekly printed,

... We are the offenders; let us make humble confession to God and ask for the forgiveness of the first Romanist we meet for our sin against God, and against him-our brother man. 32

The incident was attributed by the New York Christian Advocate (Protestant) to "A renegade Protestantism that, as it

29. Sir E. H. Archdale, former Northern Minister for agriculture. Cited in Studies, Vol. XXIII, 1934; p. 571.
30. Ibid., Sir Basil Brooks, present Minister for Agriculture.
31. Ibid., J. M. Andrews, Minister for Labour in July, 1933.
32. Cited in the Literary Digest, Vol. CXIV, 1932; p. 20.

has no pride of ancestry, we might well wish would have no hope of posterity".³³

The disturbances during the last summer³⁴ started on June 12 when Orange mobs used firearms to smash labor union meetings whose members to a great extent are Catholic. On June 18 the Government banned all demonstrations except funerals. The Orangeman, defying the order, organized processions through Catholic quarters. On June 27 the Government, informed that marches would take place regardless, withdrew its ban. When the Orangemen held their yearly celebration to commemorate the Battle of the Boyne on July 12 in which James II was defeated, fighting resulted.

The Catholics blame the police who, they claim, did nothing to stop the Orangemen from assaulting peaceable crowds. They were forced to retaliate. The uprising caused nine deaths and many wounded. Lord Craigavon, Premier, on his visit to London to consult Prime Minister Stanley Baldwin, denied he asked for extended use of military force. The disorders caused mills to close, as the Protestants refused to work with Catholics. The troops from the British garrison were used to stop

33. Ibid. p. 20.

34. Reference for these events taken from a series of articles by John Gunther in The Chicago Daily News, beginning July 20, 1935, p. 2, and running for six days.

Orange raiders.

The Catholics asserted that seven of the nine killed were Protestants, killed not by them, but by the army or the police. Most of the burned property although owned by Protestants and occupied by Catholics was destroyed by the Protestants. They pointed out that about 25% of the population of Belfast is Catholic, yet they have no part in the municipal or provincial Government. J. F. Stewart, Irish Nationalist member in the British House of Commons asserted that the trouble started because the Northern Government urged Protestants not to hire Catholics.

The Catholics hold that they are denied the full measure of State assistance enjoyed by non-Catholic schools and that Irish history is virtually excluded. They are materially boycotted and denied the right of their own ideals.

The attackers offered their explanation in an official statement issued by the Grand Orange Lodge.

The terrible scenes in our city are the direct outcome of an organized boycott directed against the celebrations in honour of the silver jubilee of our gracious King by that portion of the population which ever arrays itself on the side of sedition and disloyalty and never loses an opportunity to administer by deed and voice its bitter hatred of the Empire.³⁵

35. Ibid., July 24, p. 2.

A Northerner writing in the Round Table recently said,

That religion is not a bar to employment is shown by the fact that the first Lord Chief Justice of Northern Ireland was a Catholic, that the present permanent head of the Education Department is a Catholic, and that his immediate predecessor was also a Catholic. But the rank and file of the Government services are certainly in the main Protestant, and when comment is made on this fact, the answer given more or less plainly is, 'Why bring an enemy into the household when so many friends are unemployed?' 36

The Manchester Guardian, a liberal English paper, and members of many Protestant churches of Belfast do not stand behind the Ulsterman in his claim. The Manchester Guardian thinks a strong line of action should be taken against the Ulsterites. The paper questions the Ulsterite who claims the Catholics are disloyal. Bigotry is stimulated by a Government which lost prestige through factional legislation. "Yet no facile cure is possible; Belfast under a Dublin Parliament might be as factious and as barbarous as it is today". 37

A conference of churchmen in Belfast representing the Church of Ireland, Presbyterian, and Methodist passed a resolution expressing "shame and grief that members of the Christian community should be guilty of inflicting such outrages on each other." 38 Protestant ministers mingled with the workers urging peace.

36. Vol. XXIV, 1933, p. 298.

37. Gunther, July 21, 1935, p. 2.

38. Ibid.., July 20, p. 2.

Dissatisfaction is shown by the common citizens of Belfast. Many believe organized propaganda brought about the artificial uprising. Recent emigration from the Free State to Ulster has increased the fear of the Northern Government. Several Orangemen agreed that the plots were to teach Catholics a political lesson. In 1934 the term of residence in the Northern province for citizenship rights was increased from three years to seven, because of the emigration from the South.

It is a question as to how much longer the Northern Government can hide the significance of the fact that such men as Wolfe Tone, Robert Emmet, Lord Edward Fitzgerald, and Charles Stewart Parnell were all Protestant and leaders from Ireland accepted. The British Government in setting class against class and thus turning the Ulsterite against his countrymen, although successful to the present cannot continue to use religion as an argument against unity.

The Ulsterites have watched very carefully for religious discrimination in the South. There is an overwhelming amount of testimony against such discrimination, by Protestants and Catholics alike. Article 8 of the Free State Constitution guarantees freedom of conscience and religion. National positions are secured by civil service open competitive examinations. Many Protestants were appointed to the first Senate. Senior

judges, practically all of the Protestant Unionist class, were allowed to retire with a liberal pension if they so chose. Most of them did. All officers, a great number also being Protestant, were confirmed in their positions when the Free State was organized.

The Belfast Newsletter recently printed,

At the annual dinner in Belfast of Masonic Old Boys' Association, Mr. J. Moone, Headmaster, said he was often asked about their relations with Government officials. "With regard to the Free State Department of Education I can say this," he said, "that from the head official to the most junior inspector we get nothing but the most kindly consideration and help. No school in the Free State, I am sure, gets more flattering reports than we get from the men who come to inspect the school from time to time". 39

One example of discrimination by the people of the Free State was forcefully dealt with by the Government. A librarian sent to Mayo, which is partly Gaelic-speaking, was unfavorably received. The County Council objected to her on the grounds that she was a Protestant and did not know Gaelic. The Council was dissolved and when its members appealed to Catholics in other sections they were unsuccessful. Later, however, the librarian was transferred.

The London Morning Post printed a series of articles recently, written by a special correspondent, which represented

39. Cited by Fianna Fail, Monthly bulletin, April, 1935.

the Free State as organized to persecute the Protestants. ⁴⁰
 In answer the Catholic and Protestant press defended the Government. The Protestant Church of Ireland Gazette described the Morning Post articles as "sheer nonsense".

One of the redeeming features of the sorrows of Ireland in the last eighteen years has been the absence, except in some isolated cases, of sectarian strife. We of the Church of Ireland look to the future with no fear but in full confidence. ⁴¹

The press agrees that "home rule" has not meant "Rome rule".

Not only has the Government of the South been vindicated in its treatment of Protestants but ample proof exists to show the declining power of the Catholic Church as a political force in Ireland. The cause for the negative position occupied by the Church may be due to the fact that it meets with the disfavor of the Irish Republican Army as well as the Ulster Unionist. The Irish Republican Army are making a strenuous drive to break down the barrier between the South and the North. They accuse the Church of being unfriendly to complete independence. As proof they quote Cardinal MacRory who on his return in June of 1933 from Liverpool said God set the two islands together and He hoped that some means would be found that would set the two nations into a friendly relationship.

40. Six articles beginning July 10, 1934, and ending July 15.

41. News item in The New York Times, July 29, 1934;
 P. 3.

The Irish Republican Army had previously been condemned by the Church. In October of 1931 the Catholic Hierarchy in a pastoral letter read in all churches declared extremist military organizations were immoral. The body was again officially condemned on January 6, 1935, in the diocese of Waterford by Bishop Kinane.

Even Fianna Fail has not listened to the advice of Cardinal MacRory who on August 15, 1932, with De Valera present, said it was a shame to allow the Anglo-Irish tariff war to go on without further attempts at settlement. He admitted that his advice probably fell on deaf ears.⁴²

The results of partition have caused dissatisfaction to more than 80% of the Irish nation. The population of the North is 1,280,000 and that of the South, 2,993,000. The Catholic population of the North is 420,423 and the non-Catholics in the South number 220,723.⁴³ The safest guard of the rights of minorities, proportional representation, was abandoned in the North in 1929, guaranteeing for years to come a check on the Nationalist and Catholic vote. The Free State points out that two religious minorities in Ireland were created instead of one. Without partition there was a religious minority of 25%; with partition, 33% in the North and 7% in the South are in the minority.

42. Round Table, Vol. XXIII, 1932, p. 130.

43. Statesman's Year Book, -1935, passim.

Sacred places such as the See of St. Patrick, his burial place, the burial place of Brian who drove out the Danes, Bangor, the site of one of Ireland's ancient great schools, Mac Art Fort where Wolfe Tone swore to work for Irish freedom, Derry of St. Columcille, and other spots are all outside the Free State. Belfast, the birthplace of the Republican movement is claimed by the Irish nation.

Northern Ireland is neither a nation, a state, nor province and its frontier is artificial. Partition cuts off the Northerner from the natural development of his own culture. It is believed by some, however, that the culture of the North has always been distinct from that of the South, even in pagan Ireland. The natural increase in the anti-Government vote has been stifled by the practice of gerrymandering used openly and unashamedly. By such methods the Unionists today still manage to hold 39 of 52 seats in the Lower House. This group, constituting 75%, are in favor of partition. It is a question as to how closely the percentage is a truthful picture of the sentiment of the North. Gerrymandering makes it impossible to tell exactly. A clue can be gained as to the inaccuracy of the figure when one considers that 33% of the North are Catholic and Nationalist and that many non-Catholics are Nationalist also, bringing the non-National representation below 66%. De Valera

thinks 33% are a homogeneous, anti-Unity group. The true figure perhaps lies between these estimates. Even accepting 66% which is high, the ratio of the anti-Unity vote to the whole of Ireland is one to five.

The economic disadvantages of partition are many. The Northern Government to carry on, has been financed by the British Government.⁴⁴ The land annuities which should have been paid to the British Government were allowed to be appropriated for unemployment benefits. A Northern official writes,

The Ulster budget, however, has always been fully balanced from its own resources. The arrangements as regards unemployment, which is a national service, have been linked up with those of the British system, and have always maintained the same standard of contributions, reliefs, etc., as obtains in the British service.⁴⁵

The Round Table writes in explanation,

... Since then the liability [unemployment insurance] has been shared with Great Britain, and an equalization payment falls to be made to the country whose rates of unemployment is highest; ... for some years North Ireland has had the enviable distinction of receiving payments.⁴⁶

The two financial systems in an island of four and a half million people united in tradition, political institutions, and territory until 1920 is an unnecessary expenditure of millions of pounds. The tariffs established between North and South are

44. 267 H. of C., 5s. col. 1483.

45. Pollock, Christian Science Monitor, February 6, 1935; p. 2.

46. Vol. XXIV, 1933; p. 300.

obnoxious to business men in both sections and are a continual annoyance. The Great Northern Railway Company has been particularly affected. Continued connection of the agricultural counties with an over-industrialized and over-populated Britain will lead to nothing but pauperization.

Besides financial support by England the Northern Government is reassured of its present political position. On April 13, 1932, the British Cabinet assured the Premier of Northern Ireland that it would never barter the present status quo of the North in return for an agreement with the Free State. This was reaffirmed in the House of Commons debate.⁴⁷ For this reason, friendship with England to win her away from the North, is thought by some to be the first step towards unity.

That unity may be accomplished without further bloodshed is not an impossibility. De Valera during a debate on a resolution that reunion should be the primary purpose of the Free State Government said on March 1, 1933, "We say that we cannot coerce them; we will not coerce them, even if we could. That is not our purpose".⁴⁸

And again,

... appeals to old dissensions and methods which would involve violence against fellow countrymen cannot bring about the unity and independence of

47. 267 H. of C. 5s. col. 675 et. seq.

48. Parl. Debates, D. E., Vol. XLVI; col. 189.

Ireland. Unity of territory cannot come without unity of spirit, or independence until the people of their own free will determine to win it...49

Several plans have been suggested to unite the two. One such plan is for Great Britain to confer Dominion status on the North. If financial support were withdrawn from it and it was put on an equal footing with the South, the two could arrive at an agreement themselves. The North would be unable to support itself and would see the wisdom of cooperating with the Free State.

De Valera is acceptable to many Northern Nationalists. They elected him to the Northern Parliament in 1933, and they feel they have been "let down" by the political groups in opposition to him. Attempts of opponents to gain their following have been unsuccessful. With De Valera as leader, a form of government acceptable to the North could be worked out. The Senate could be used in the formation of a federal State. An arrangement similar to the Swiss plan, which was considered in 1921 and abandoned, might be used as a model. That Government consists of a committee elected by the houses, responsible to them and willing to work with both. One of the Houses represents the nation, the other represents sections, different in language, race, and religion. Mr. Kennedy in 1929 thought some similar.

49. Fianna Fail; April, 1935, p. 1.

lar arrangement was possible. He wrote,

Whenever that day comes, it will be possible for the lost counties to come into the Free State with their existing provincial parliament and institutions (if such should be the agreement) while at the same time by full representation in the Dail and in the Senate to cooperate in the government of the whole or a reunited Ireland.⁵⁰

The North itself could achieve unity. A strong national feeling among the Orangemen is not out of the question. On Orange Day of 1934 most of the abuse was leveled, not at Catholics, but at the independent Unionists who dared to hint at re-union with the Parliament of Westminster. It is felt that Westminster would subordinate Irish interests to British party politics. At the annual meeting of the Ulster Unionist Council held in Belfast on January 19, 1934, Lord Craigavon said that to have accepted direct rule from Westminster would not have been to the best interests of Ulster.

The press of the North would have to utilize its facilities to educate the public to the economic advantages. The domestic freedom of the North need not be sacrificed.

It is doubtful whether these forces could overcome the Government resistance which asserts, "a united Ireland is not only impossible but unthinkable".⁵¹ They hold that their suc-

50. American Bar Assn. Journal; op. cit., p. 445.

51. Speech by Lord Craigavon, August 25, 1934. Cited in The New York Times, August 27, 1934; p. 12.

cess has been proved. Mr. Pollack, a Northern Government Minister recently wrote,

... since its inauguration as a federal state, evidences of progress are visible on all hands, while at the same time, the determination of the Ulster people to weld still more firmly the links which bind them to their British fellow citizens and to the Empire is, if that were possible, more pronounced than at any period of their history. 52

Understanding between the North and South would rectify the injustice brought about by a former British leader. Animosity over the boundary settlement would disappear. The contentions of the Ulsterman, especially to economic superiority, would be shown to be groundless. With unity the spirit of the United Irishmen towards their Catholic neighbor might be re-created. Sore spots in national life would be healed, as the government of the South has indicated its willingness to cooperate. The country once more could develop its distinct national culture. free from hindrances.

CHAPTER VII

CONCLUSION

1

Recommendations

The Fianna Fail Government has made every possible move to attain Republican status short of actually proclaiming a Republic. The present position of the Free State is untenable. There are two lines of action that could be followed in the solution of the Anglo-Irish position. If Great Britain remains adamant and upholds the North, unity is impossible and a twenty six County arrangement is the best obtainable. If England will withdraw from her present position, a thirty two County Dominion or Republic is possible.

A twenty six County Republic has been suggested but not seriously considered. This form of Republic would comprise the twenty six counties of the South and would exclude the Northern six. Practically all are agreed that such a procedure would further alienate the ruling class in the North and make Irish unity much harder. De Valera stated definitely in the 1933 election that he did not favor a Republic for the South. One supporter of the idea thinks a twenty six County Republic is feasible, just as Newfoundland is not necessary to Canada.¹

1. Round Table, Vol. XXV (March, 1935)

An editorial in the Spectator states that if the Free State asked for a Republic for the twenty six, thus recognizing the legality of the Treaty, England might grant it.²

The alternative, a thirty two County arrangement, remains. A few weak spots in the armor of Mr. Thomas are discernible. In a note to De Valera on April 9, 1932, he said,

There can be no conceivable hope for the establishment of a united Ireland except on the basis that its allegiance to the Crown and its membership of the British Commonwealth will continue unimpaired.³

He did not affirm that a united Ireland was impossible under any conditions. On February 15, 1935, in a speech in London he said that sanctity of agreement and membership in the Commonwealth are fundamental in any settlement of the difficulty.⁴

There is implied a recognition of unity within the Commonwealth. As in the case of the Treaty, Dominion status for all of Ireland might be accepted and the Irish could "... deal with it in good faith with the English people, and through the files of events, reach if we desire it, any further status that we desire or require".⁵

The Anglo-Irish and the English, pointing out that the extremist cult of Wolfe Tone is now a dead formula, and that the

2. June 1, 1934; p. 843.

3. "Papers Relating to the Parliamentary Oath of Allegiance".

4. Bulletin of International News, Vol. XI (February 21, 1935) p. 20.

5. Arthur Griffith, cited by the Economist, op.cit., Vol. CXVII, (December 9, 1933) p. 1112.

day of the sovereign national State is past, cite the many advantages of Dominion status. It could be made acceptable by the substitution of an oath in which all reference to the King is eliminated, and every member of the Dail could pledge himself to maintain Ireland's loyal co-operation with and within the Commonwealth in all military, economic, and political affairs.

The material advantages to both parties to the contract would be numerous. The enormous expense of defense would continue to be borne by Great Britain, who in turn would have the guarantee of security on its Western frontier. Preference in the English market, Ireland's best customer, is stressed. Prohibitive tariffs by England and Ireland against one another would be removed, making the continuance of the present intensive drive for foreign markets by the Fianna Fail Government unnecessary. Mutual trade benefits of membership are only a few Commonwealth advantages. Irish investments would not suffer. The surplus labour population would continue to be employed in Scotland and England. The right to enter the public service of Great Britain and the openings for the professional man would still be available to the Irish. The standard of living would be maintained at its present level rather than lowered, a result which inevitably follows a program of self-

sufficiency. The sacrifices necessary to establish the new Free State industries are bound to lower temporarily at least the scale of living. Commonwealth membership is the only means of obtaining unity with the consent of Great Britain. The Irish could enjoy full reality of political freedom. Guarantees of freedom, even against Great Britain itself, are contained in the Commonwealth. Other members would uphold Ireland in case her liberties are attacked by England, especially South Africa which is very friendly to Ireland.⁶ England would not be forced to step in and forcibly occupy Ireland in case of war. If Ireland were not a Dominion, the fear of a German plot by the Loyalists would make such occupation necessary.

Ireland would be in a position to influence the affairs of the Commonwealth, just as Kevin O'Higgins did, about whom Andrew Malone wrote,

... the famous socalled 'Balfour Memorandum' owes more to the late Kevin O'Higgins than it does to Lord Balfour, who presented it to the Conference by virtue of the presidency of the committee.⁷

J. M. Jeffries in the English Review also attributes the charter of the Dominions in major part to the persistence of the Irish delegates. He thinks an Irish Prime Minister as a member of the Commonwealth has ten times the power of the Irish

6. Denis Gwynn, "The Irish Free State Elections", Nineteenth Century, Vol. CXIII (March, 1933) p. 321. Also, Binchy, Studies, Vol. XXIV (March, 1935) p. 20.

7. Malone, op. cit., p. 375.

President of a Republic and through the Irish idealism could give new direction to the Imperialist program as a bulwark against the advances of Russia.⁸ With Ireland in the Commonwealth there would be no precedent set for the dissolution of the British Commonwealth of Nations and the likelihood that "if disintegration once begins it may grow apace".⁹

The spiritual loss in its acceptance would be compensated for in the material gain. Loyalists, about 100,000 to 150,000 not in the Dominion, would suffer both spiritual and material loss in being forced to renounce allegiance to their ancestors. One landlord is very bitter,

Now we may have to go, because with the taxes increasing, we won't be able to keep our places up. The Republicans, I am told, want to have Ireland wholly for the Irish. My people came over in Elizabeth's time. My first ancestor here married an Irishwoman, a Macmurragh, descendant of a King. And their son married an Irish girl. I have a lot more Irish in my veins than De Valera.¹⁰

There is a religious aspect to the plan in that ministers of religion would continue to have the protection of a huge empire no matter where they went. Openings for their calling would

8. J. M. Jeffries, Vol. LVIII, p. 423.

9. J. Keane, "Ireland: Commonwealth or Republic", Quarterly Review (London) Vol. CCLXII (January, 1934) p. 165.

10. Cited by Maud Radford Warren, "Again a New Ireland", The Saturday Evening Post, November 19, 1932; p. 85.

always be available. Ireland would be betraying her spiritual vocation by withdrawal from the Commonwealth; for Faith's sake and the sake of the world, she should stay in. Irish culture, benefited by its contact with the Anglican, would also suffer. To all of which arguments a deaf ear is turned by the Celt.

A thirty two County Republic is desired by the majority in the Free State today. Elections since 1932 show this. Its attainment, unless unforeseen circumstances change conditions, is visionary. The British Government had definitely stated its refusal to commit itself on the use of force. In the course of a statement made to the House of Commons Mr. Thomas said, "The Irish Free State, as a member of that Commonwealth is ... completely free to order her own affairs".¹¹ In answer, De Valera sent a note to Mr. Thomas in which he said,

The Irish people have never sought membership of the Commonwealth. Their association with Great Britain and the Commonwealth has never on their side been a voluntary association... whenever they yielded to British rule in any form they did so only under the pressure of overwhelming material force. ¹²

He went on further to ask for a direct and unequivocal statement as to Britain's action if Ireland declared a Republic.

11. 281 H. of C. 5s., col. 727.

12. 283 H. of C. 5s., col. 1458.

Mr. Thomas replied that "they do not feel called upon to say what attitude they would adopt in circumstances which they regard as purely hypothetical".¹³ The answer is in keeping with England's historic policy of using Ireland for protection of her own coast. "... it is doubtful whether Britain would allow her western frontier to be the Irish sea".¹⁴ In discussing the Treaty Lloyd George said,

There lies Ireland right across the ocean. The security of Britain depends on what happens on this breakwater-this advance-post or front trench of Britain. ¹⁵

Ireland's right to withdraw from the Commonwealth and establish a Republic is upheld by many. Bonar Law publicly stated in the House of Commons that if the Dominion of Canada chose to say, "'we will no longer make a part of the British Empire,' we would not force them".¹⁶ The Irish point out that the report on the inter-Imperial Relations Committee of the Imperial Conference of 1926 states,

Every self-governing member of the Empire is now the master of its own destiny. In fact, if not also in form, it is subject to no compulsion whatever. ¹⁷

13. Ibid., col. 1459.

14. Wm. M. Conacher, "De Valera", Queen's Quarterly (London) Vol. XL1, 1934; p. 328.

15. Wm. G. Fitzgerald, Editor, The Voice of Ireland; p. 6.

16. 127 H. of C. 5s., col. 1125.

17. Cited in The Times (London) August 30, 1934.

The British Government could take the first step by agreeing that the Irish Government should cease to be conditioned by the Treaty and thus make the above operative.

To further support the right of secession, the Irish quote the Statute of Westminster, "... inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations". 18

Secession is upheld by the liberal English press, as shown in the following quotations,

The life of the law has not been logic; it has been experience....The Empire owes its existence and persistence to the British capacity to bend both law and logic to experience, rather than vice versa. 19

If Ireland wishes to leave the Commonwealth and become a separate republic she has a right to do so... 20

The British Government should say plainly,

What everyone knows to be implicit in the relationship of the Dominions to the mother country-that they have the right of secession. 21

Mr. Binchly writing in Studies expressed the opposite view, ... no loose talk about the 'right to secede' ... will make secession legal. No Dominion has

18. Great Britain Bills, Public: Vol. 111, 1931-32,

19. The Economist (London) Editorial, Vol. CXVII (December 9, 1933) p. 1112.

20. The New Statesman and Nation (London) Editorial, Vol. 111 (April 30, 1932) p. 549.

21. Ibid., September 1, 1934; p. 255.

or could have the legal right to secede; but any Dominion may secede, if it wishes to do so and is prepared to accept the consequences. 22

The objection to the Dominion is that it runs counter to the national tradition. The Irish point out that there are advantages in a thirty two County Republic. Ireland claims to be an old nation with all the rights of nationhood. The Council of Constance in 1416 stated as an international ruling that Europe was first constituted from four nations, Rome, Byzantine, Ireland and Spain.²³ Ireland was a conquered nation and has never yielded her sovereignty to England. The Irish cannot admit freely that sovereign independence is derived from a British Statute. Following the World War nations not as old nor as renowned as Ireland were given their independence.

Jonathan Swift, an Englishman, in support of the Celts, declared that if a republic were obtained, the culture of the Celt would furnish a unique contribution to European civilization, a happy alternative to the soulless quality of Russian communism and soulless mechanism of Western civilization. 24

Spiritually the people, under a republic, would be benefited. A Fianna Fail party organ states,

That ideal, the Irish Republic, has not yet been fully achieved, but neither has it been abandoned.

22. Vol. XXIV, March, 1935; p. 21.

23. Cited by Darrell Figgis, op. cit., p. 8.

24. In a pamphlet entitled Ireland-A Republic by Reason by Jonathan Swift. passim., Hyde Publ. Co., London, 1932.

It is still the goal of all true Irishmen and women. It is the destiny of our nation and the inspiration behind every effort made or planned within the last nineteen years to undo the Conquest.²⁵

Principle would not be sacrificed for expediency. The forms and symbols depriving Ireland of sovereignty would be banished. A free Republic would establish lasting peace and friendship with Great Britain. Evil memories would disappear. The supposed plot of Germany in case of war to invade Ulster and unite it with the South, thus winning the allegiance of the South, would not materialize. A fear of continued insurrection under existing conditions is expressed in the following Dail speech.

... as long as a foreign power claims to dominate a single foot of the territory of this country, Great Britain may know that there will be an effort made by Irishmen to get them out of it. That is the fundamental position.... if there is to be real good-will and co-operation between the people of this country and Great Britain, then certain fundamental things will have to be satisfied. The unity of this country is essential before we will ever get a complete and final settlement with England. 26

The Round Table writes that,

Although the lingering sores may take long to heal, we are entitled to hope that if we lose Ireland it will be only to gain her, just as in our relations with the other Dominions we have lost vassals to gain partners.... 27

The relations between the two countries would be based on

25. Fianna Fail (April, 1935) p. 4.

26. Parl. Debates, D. E., Vol. XLVIII, col. 2778.

27. Round Table, Vol. XXIV, 1933; p. 45.

reason instead of force. De Valera expressed the animosity to the use of force when he said,

If we are independent, why is Cobh held? Why are the British maintaining parties of troops on our shores? If we are independent is it the will of the people of the six Counties to be cut off? Is it not obvious we are not free in Ireland? 28

Internecine strife would cease. The useless effort to maintain the evolutionary development of the Free State as a Dominion would also cease. They had gained their present status by revolution, not by evolution.

There is talk also of compromise. The plan of "external association" is a compromise between the extreme views of the British ruling class and those in Ireland who want a Sovereign Republic without any reservations. The British Government has been asked to acknowledge a plebiscite of all Ireland to determine whether Ireland shall remain in the Commonwealth. A Northerner objects to this, claiming that 30% of the North are the only ones entitled to vote in such a plebiscite.²⁹

De Valera thinks an all-Ireland plebiscite could be made the basis of a free choice. Once the Irish people are given the opportunity to leave the Commonwealth without threats of repris-

28. De Valera in the Dail, May 25, 1934. Cited by The Irish Review (July, 1934) Editorial, p. 3.

29. Round Table, Vol. XXV (March, 1935) p. 258.

al, they and the English people can then discover the interests they have in common and form an "external association" with the King as head. Written guarantees might be given to one another. Great Britain would have to leave the Irish ports, and it would be necessary for Ireland to guarantee eternal friendship by a refusal to allow her territory to be used as a base for operations by an enemy of Great Britain, for De Valera declares,

I can say that so long as this Government is in office and I think I can say it for any government, our territory will never be permitted to be used as a base for attack upon Great Britain. 30

The difficulty of arriving at an external association is the refusal of Great Britain to accept any but a Commonwealth tribunal, and the refusal of Ireland to accept any arbiter connected with the British Government, or Commonwealth.

There are recent developments which are too close to our times to estimate. Mr. Thomas reported to the House of Commons that recent negotiations for a Republic held in London had broken down. The British Government could not recognize De Valera's demand for an independent Republic. Mr. Thomas rejected a suggestion to allow a foreign tribunal to try the case. The Statute of Westminster also states, he pointed out, that the members of the Commonwealth are "united by a common allegiance to the Crown."³¹ The three conditions necessary for

30. De Valera in the Dail, May 29, 1935; cited by the Journal, Vol. XVI, 1935; p. 728.

31. Cited in the Chicago Tribune, July 11, 1935; preamble to the ^{Act} the

a settlement have been denied; namely, the promise not to use force, the waiving of the Treaty rights, and an international tribunal. No action towards a Republic is to be taken, however, unless success is guaranteed. The debacle of 1916 is not to be repeated. The Round Table asserts,

Any escape from the existing impasse by direct negotiation would, therefore, seem to be impossible while he [De Valera] remains in power; nor is it likely that his Government will be replaced by any other for some time to come.³²

A wide discussion in the press of both countries has brought the British Government to a realization that a change is desired. But the question is, will Ireland continue to be an afterthought with the British? The next generation may be the one to decide what form the change will take.

32. Round Table, Vol. XXIV, 1933; p. 37.

Trends In The Free State

Ireland today has all the symptoms of extreme nationalism observable in the political, economic, racial, and linguistic phases. The Celt, for the first time since Elizabeth, rules.³³ The Celtic stronghold, the Gaeltacht districts of the West, those districts in which Irish is the spoken language of all or a considerable section of the inhabitants, is the remnant of the old Irish nation, driven there by Cromwell, and the main repository of the Irish Catholic tradition. The inhabitants of these districts are to set the standard in the future, if their development is not impeded. The districts hold one-third of the population of the Free State. The deplorable condition of these people explains in great part their hatred of English rule.³⁴ They are among the best physically and morally of the Irish people. They are at present (1926) according to a Free State Government Commission, living in conditions of destitution and material misery. They are the victims of oppression and social injustice of the past two centuries and "to a large extent the wrecks of past racial, religious, agrarian and soc-

33. R. R. Madden, The United Irishmen p. 5, 19, et. passim. Also, see Ireland and England by Edw. R. Turner, The Century Co., New York, 1920; an American writer. p. 70 et. seq.
34. Irish Free State Government Commission, 1926, cited by the Rev. E. Cahill in Ireland's Peril; M. H. Gill & Son, Ltd.; Dublin, 1930. Also Turner, op. cit., p. 81 et. passim.

ial storms... and of famine catastrophies;"³⁵ they have been termed "evicted tenants of the race."³⁶ Their forefathers disinherited, were driven from their lands. Their condition has deteriorated still further since the Irish Free State set-up due to a succession of bad seasons, abolition of the fishing industry, the crushing of the few surviving rural industries, increased taxation, and a general depression in agriculture. They are in danger of extinction through emigration. The Irish-speaking population will disappear very soon unless something is done. The present government hopes to save the Gaeltacht culture.

The scale of philosophical values of the Celt is different from that of the English which is based on expediency. The Celt accepts the absolute standard of Continental philosophy. Temporal government to him is merely an outward and visible symbol of the eternal truth. He defers to an idea or the physical embodiment of the idea. He is viewed with antipathy by man of the Anglo-Saxons and Anglo-Irish.

Their disordered minds are full of dreams of revenge for imaginary wrongs or injuries so far in the past that we have forgotten them.³⁷

It [Ireland] is full of undersexed, undernourished, uneducated, despondent people, who live uncomfortably, in a damp, rainy climate, where mournful gray tints and lowering skies, rare sun light, absence of opportunity, poverty, oppression, and unrest have produced

35. Words of the Royal Commission of 1908, cited by Cahill, p.19.

36. 1926 Report, cited by Cahill, p.19.

37. The Saturday Review (London) Vol.CILY. 1932: p. 119.

a nation chiefly conscious of and concerned about one thing, to demonstrate that they are not English. 38

The same writer goes on to say later that he thanks God that the Irish are different from the English.

There is a conflict between the English pride of Empire and the Irish pride of race; England's eye is on the international scheme, but the Celt chooses to be severely nationalistic. His chosen leader,

thinks not in time but in eternity. He thinks much of honour, the worldly code, but far more of morals, the heavenly code.... It is a quality of mind entirely beyond the comprehension of the more downright Saxon mind.... Between it and mentality that respects the code of men there can be no sympathy.³⁹

The inability of the English to understand the Celtic leader can be gleaned from Lloyd George's opinion of him. Lloyd George thinks he is a stubborn and unreasonable antagonist with whom it is impossible to arrive at an agreement.⁴⁰ The Round Table also writes,

He belongs to that category of mankind with whom one cannot argue but must only agree. He is not in the least like the ordinary politician, who proceeds by negotiation to compromise. 41

38. Stiobhan Padraig Maceochagain, "Thoughts on the Irish", Harper's, Vol. CLXV, September, 1932; p. 482.

39. An Irish Observer, "The New Irish War" The Nation, Vol. CXXXVlll, January 10, 1934; p. 41.

40. Cited by Williams, op. cit., p. 106.

41. Round Table, Vol. XXlll, 1932; p. 305.

The form of government evolved by the Anglo-Irish in the former regime is not an indication of what the Celt will develop. Since the Fianna Fail party has been in office it has done more than all the time it abstained. Denis Gwynn says De Valera has been a clear-headed realist since he has been in. 42

The present government inherited a structure in which the Executive exercised many powers formerly held to be outside its sphere. There had been a rapid development of extra-Constitutional powers, a system of administrative laws, due to the complexity of the needs of modern government. The Oireachtas had delegated these powers to the ministers because it considered it necessary to efficient government. The political party in power is in a position to enforce a despotism, benevolent or otherwise, according to the aims of its leaders.

Besides inheriting large executive powers, the Fianna Fail Government inherited the Public Safety Act of 1931, a "Weapon of tyranny unparalleled in any country that has not an out and out dictatorship."⁴³ The Fianna Fail government has followed a middle course in its use. It has used the Act against the extreme Left as well as the Right. The prosecution of the Blue

42. "The Crisis in the Irish Free State" The Nineteenth Century and After (London) Vol. CXV, January, 1934; p. 57.

43. Robt. Reinhart, "Liberty in the Irish Free State."

Shirts was followed by the imprisonment of Irish Republican Army men who were not won over to constitutional methods.

The anti-Government press and the English press report on the democratic character of the present government. The Irish Times, supporter of the Cosgrave regime, reported on March 27, 1935,

The Free State Government represents the 'will of the people' to an extent that can be claimed by hardly any other administration in Europe today. Saorstát Eireann boasts of one of the most broadly democratic systems of popular representation in the world, and since the abolition of the oath of allegiance to the King, no 'test' of any kind is imposed on any candidate for the national Parliament. 44

Representative government has a safer future in Irish than in most hands. 45

The New Statesman reports that democracy for the first time in Ireland has begun to work. They have produced a leader who represents the interests and wishes of the poorer and larger sections of the nation. 46 The Chicago Tribune in an article discussing freedom of the press in Europe pictures the Free State as one of the few countries still retaining that institution. 47

The economic program of the present government is a com-

44. Cited by Fianna Fail, Vol. 11, p. 2.

45. W. C. K. Adams, Warden at Oxford, in a forward to Mansergh's book; p. 10.

46. August 19, 1933; Vol. VI, p. 205.

47. Special article by Joseph Duggan, August 4, 1935; Part 7, p. 6.

bination of socialism and individualism; a Christian socialism, or distributism; a State where each member of society is to own property. Land is still the main issue. Steps are being taken to make each peasant a landed proprietor. The Government is following a plan which will make agriculture the foundation of the State. The new home industries are to minister to the comfort and happiness of the State. Foreign trade is to be the servant of agriculture and home industries. The latter are not to be subordinated to trade.

The class war in Ireland is similar to the Continental movements in some ways. The aristocratic classes are associated with the Anglo-Irish and English groups. The Government has taken a moderate attitude in the clash between the two.

The Church will shape Ireland's social life; a small, self-contained, Catholic refuge is emerging with intellectual and spiritual values especially fitted for the task of serving Western civilization. According to De Valera, Ireland

remains a Catholic nation, and as such she sets the eternal destiny of man high above the 'isms' and Idols of the day. Her people will accept no system which denies or imperils that destiny...While that is their attitude, none of the forms of State worship prevalent in our times can flourish in this land....48

FINIS

48. De Valera in a radio address to America on March 17, 1935, cited by Fianna Fail (April, 1935) p. 6.

APPENDIX

THE ANGLO-IRISH TREATY

ARTICLES OF AGREEMENT FOR A TREATY BETWEEN
GREAT BRITAIN AND IRELAND

1. Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State.

2. Subject to the provisions hereinafter set out the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State.

3. The representative of the Crown in Ireland shall be appointed in like manner as the Governor-General of Canada and in accordance with the Practice observed in the making of such appointments.

4. The oath to be taken by Members of the Parliament of the Irish Free State shall be in the following form:

I do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H. M. King George V, his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

5. The Irish Free State shall assume liability for the service of the Public Debt of the United Kingdom as existing at the date hereof and towards the payment of war pensions as existing at that date in such proportion as may be fair and equitable, having regard to any just claims on the part of Ireland by way of set off or counter-claim, the amount of such sums being determined in default of agreement by the arbitration of one or more independent persons being citizens of the British Empire.

6. Until an arrangement has been made between the British and Irish Governments whereby the Irish Free State undertakes her own coastal defense, the defense by sea of Great Britain and Ireland shall be undertaken by His Majesty's Imperial Forces. But this shall not prevent the construction or maintenance by the Government of the Irish Free State of such vessels as are necessary for the protection of the Revenue or the Fisheries.

7. The Government of the Irish Free State shall afford to His Majesty's Imperial Forces:

- (a) In time of peace such harbour and other facilities as are indicated in the Annex hereto, or such other facilities as may from time to time be agreed between the British Government and the Government of the Irish Free State; and
- (b) In time of war or of strained relations with a Foreign Power such harbour and other facilities as the British Government may require for the purpose of such defense as aforesaid.

8. With a view to securing the observance of the principle of international limitation of armaments, if the Government of the Irish Free State establishes and maintains a military defense force, the establishments thereof shall not exceed in size such proportion of the military establishments maintained in Great Britain as that which the population of Ireland bears to the population of Great Britain.

9. The ports of Great Britain and the Irish Free State shall be freely open to the ships of the other country on payment of the customary port and other dues.

10. The Government of the Irish Free State agrees to pay fair compensation on terms not less favourable than those accorded by the Act of 1920 to judges, officials, members of Police Forces and other Public Servants who are discharged by it or who retire in consequence of the change of government affected in pursuance hereof.

Provided that this agreement shall not apply to members of the Auxiliary Police Force or to persons recruited in Great Britain for the Royal Irish Constabulary during the two years next preceding the date hereof. The British Government will assume responsibility for such compensation or pensions as may be payable to any of these excepted persons.

11. Until the expiration of one month from the passing of

the Act of Parliament for the ratification of this instrument the powers of the Parliament and the government of the Irish Free State shall not be exercisable as respects Northern Ireland and the provisions of the Government of Ireland Act, 1920, shall so far as they relate to Northern Ireland remain of full force and effect, and no election shall be held for the return of members to serve in the Parliament of the Irish Free State for constituencies in Northern Ireland, unless a resolution is passed by both Houses of the Parliament of Northern Ireland in favour of the holding of such elections before the end of the said month.

12. If before the expiration of the said month, an address is presented to His Majesty by both Houses of the Parliament of Northern Ireland to that effect, the powers of the Parliament and Government of the Irish Free State shall no longer extend to Northern Ireland, and the provisions of the Government of Ireland Act, 1920 (including those relating to the Council of Ireland) shall so far as they relate to Northern Ireland, continue to be of full force and effect, and this instrument shall have effect subject to the necessary modifications.

Provided that if such an address is so presented a commission consisting of three persons, one to be appointed by the Government of the Irish Free State, one to be appointed by the Government of Northern Ireland and one who shall be Chairman to be appointed by the British Government shall determine in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions, the boundaries between Northern Ireland and the rest of Ireland, and for the purposes of the Government of Ireland Act, 1920, and of this instrument, the boundary of Northern Ireland shall be such as may be determined by such Commission.

13. For the purpose of the last foregoing article, the powers of the Parliament of Southern Ireland under the Government of Ireland Act, 1920, to elect members of the Council of Ireland shall after the Parliament of the Irish Free State is constituted be exercised by that Parliament.

14. After the expiration of the said month, if no such address as is mentioned in article 12 hereof is presented, the Parliament and Government of Northern Ireland shall continue to exercise as respects Northern Ireland the powers conferred on them by the Government of Ireland Act, 1920, but the Parliament and Government of the Irish Free State shall in Northern Ireland have in relation to matters in respect of which the Parliament of Northern Ireland has not power to make law under that Act (including matters which under the said Act are within the jurisdiction of the Council of Ireland) the same powers as

in the rest of Ireland subject to such other provisions as may be agreed in manner hereinafter appearing.

15. At any time after the date hereof the Government of Northern Ireland and the Provisional Government of Southern Ireland hereinafter constituted may meet for the purpose of discussing the provisions subject to which the last foregoing article is to operate in the event of no such address as is therein mentioned being presented and those provisions may include:

- (a) Safeguards with regard to patronage in Northern Ireland;
- (b) Safeguards with regard to the collection of revenue in Northern Ireland;
- (c) Safeguards with regard to import and export duties affecting the trade or industry of Northern Ireland;
- (d) Safeguards for minorities in Northern Ireland;
- (e) The settlement of the financial relations between Northern Ireland and the Irish Free State;
- (f) The establishment and powers of a local militia in Northern Ireland and the relation of the Defense Forces of the Irish Free State and of Northern Ireland respectively:

and if at any such meeting provisions are agreed to, the same shall have effect as if they were included amongst the provisions subject to which the Powers of the Parliament and Government of the Irish Free State are to be exercisable in Northern Ireland under article 14 hereof.

16. Neither the Parliament of the Irish Free State nor the Parliament of Northern Ireland shall make any law so as either directly or indirectly to endow any religion or prohibit or restrict the free exercise thereof or give any preference or impose any disability on account of religious belief or religious status or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at the school or make any discrimination as respects state aid between schools under the management of different religious denominations or divert from any religious denomination or any educational institution any of its property except for public utility purposes and on payment of compensation.

17. By way of provisional arrangement for the administration of Southern Ireland during the interval which must elapse between the date hereof and the constitution of a Parliament and Government of the Irish Free State in accordance therewith, steps shall be taken forthwith for summoning a meeting

of members of Parliament elected for constituencies in Southern Ireland since the passing of the Government of Ireland Act, 1920, and for constituting a provisional Government, and the British Government shall take the necessary steps to transfer such provisional Government the powers and machinery requisite for the discharge of its duties, provided that every member of such provisional Government shall have signified in writing his or her acceptance of this instrument. But this arrangement shall not continue in force beyond the expiration of twelve months from the date hereof.

18. This instrument shall be submitted forthwith by His Majesty's Government for the approval of Parliament and by the Irish signatories to a meeting summoned for the purpose of the members elected to sit in the House of Commons of Southern Ireland, and if approved shall be ratified by the necessary legislation.

On behalf of the British
Delegation

(Signed)

D. LLOYD GEORGE
AUSTEN CHAMBERLAIN
BIRKENHEAD
WINSTON S. CHURCHILL
L. WORTHINGTON-EVANS
HAMAR GREENWOOD
GORDON HEWART

On behalf of the Irish
Delegation

(Signed)

ART O GRIOBHTHA
(ARTHUR GRIFFITH)
MICHAEL O COILEAIN
RIBBARD BARTUN
EUDHMIONN S. O'DUGAIN
SEORSA GHABHAIN UI DHUB-
HTHAIGH

December 6, 1921

ANNEX

1. The following are the specific facilities required.
DOCKYARD PORT AT BEREHAVEN.

(a) Admiralty property and rights to be retained as at the date hereof. Harbour defenses to remain in charge of British care and maintenance parties.

QUEENSTOWN

(b) Harbour defenses to remain in charge of British care and maintenance parties. Certain mooring buoys to be retained for use of His Majesty's ships.

BELFAST LOUGH

(c) Harbour defenses to remain in charge of British care and maintenance parties.

LOUGH SWILLY

(d) Harbour defenses to remain in charge of British care and maintenance parties.

AVIATION

(e) Facilities in the neighbourhood of the above Ports for coastal defense by air.

OIL FUEL STORAGE

(f) Haulbowline Rathmullen	To be offered for sale to commercial companies under guarantee that purchasers shall maintain a certain minimum stock for Admiralty purposes.
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2. A Convention shall be made between the British Government and the Government of the Irish Free State to give effect to the following conditions:

(a) That submarine cables shall not be landed or wireless stations for communication with places outside Ireland be established except by agreement with the British Government; that the existing cable landing rights and wireless concessions shall not be withdrawn except by agreement with the British Government; and that the British Government shall be entitled to land additional submarine cables or establish additional wireless stations for communication with places outside Ireland.

(b) That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof and shall not be removed or added to except by agreement with the British Government.

(c) That war signal stations shall be closed down and left in charge of care and maintenance parties, the Government of the Irish Free State being offered

the option of taking them over and working them for commercial purposes subject to Admiralty inspection, and guaranteeing the upkeep of existing telegraphic communication therewith.

3. A Convention shall be made between the same Governments for the regulation of Civil Communication by Air.

D L I G
A C

A G W S C
B E S L D S G D

M L' C
R B

B I B L I O G R A P H Y

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(Seanad) Dublin, Government Stationery Office

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(Dail Eireann) Dublin, Government Stationery Office

Great Britain The Parliamentary Debates; Official Report
(House of Commons) London, H. M. Stationery Office

Great Britain The Parliamentary Debates; Official Report
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The League of Nations publications consulted are the fol-
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NEWSPAPERS

There is no file of Irish or Irish-American newspapers in Chicago. However, a few copies of the Irish Press are available. The Irish Press claims to be the only "Irish" Irish paper, in contrast to the "Anglo-Irish" publications. It is controlled by Fianna Fail, the political party now in power. The same party also issues a monthly bulletin in the form of a newspaper entitled Fianna Fail.

Many English Weeklies and a few Dailies are in the Chicago vicinity on file.

ENGLISH WEEKLIES

Manchester Guardian Liberal in its viewpoint.

The New English Weekly (London) : a Review of Public Affairs, Literature, and the Arts.

The Economist (London) : Commercial Times Bankers' Gazette and Railway Monitor; a Political, and General Newspaper, Liberal.

The Spectator (London)

The New Statesman and Nation (London) Liberal.

The Saturday Review (London) "The Only Paper that Dares to Tell You All the Truth." The Chawton Publishing Co. Imperialist viewpoint.

ENGLISH DAILIES

The Times (London)

The Morning Post (London)

American newspapers frequently devote space to Irish news. The following papers have been quoted.

The Times (New York) Daily

America (New York) Weekly; contains a running account of Irish news.

The Christian Science Monitor (Boston) Weekly Magazine

Section: A Survey of World Affairs; Christian Science Publishing Society.

The Chicago Daily News
The Tribune (Chicago) Daily

PERIODICALS

Irish Periodicals

The best Irish periodical for political news in Chicago is a magazine entitled Studies: (Dublin) Political, Economic, Literary and Scientific; an Irish Quarterly Review.

Another publication which occasionally devotes an article to the political or economic situation is The Irish Monthly (Dublin): A Journal of Catholic Action; a magazine of General Literature.

English Periodicals

Many English periodicals devote space to Irish events. For political news, the following two are the best, as they have a section in each issue reviewing happenings in the Irish Free State.

Journal of the Parliaments of the Empire (London) Quarterly; issued under the authority of the Empire Parliamentary Association; Westminster Hall, Houses of Parliament. A summary of important legislation is given in each number.

The Round Table (London) A quarterly review of the politics of the British Commonwealth of Nations. It claims to be free from the bias of local party issues. Local residents are the contributors, but names are not given. The editorial staff takes responsibility for all articles unless specifically disclaiming viewpoints expressed in certain ones, in which case the author may be listed. MacMillan, London

Occasionally articles appear in other English periodicals. Those used are:

Bulletin of International News. (London) Published fortnightly by the Royal Institute of International Affairs; Hugh Latimer, Editor. The Royal Institute of International Affairs is precluded by its charter from expressing an opinion on international affairs.

Contemporary Review (London) Monthly.

The Dublin Review (London) Monthly; "A survey of current events and thought by Catholic thinkers..."; Under direction of Mr. Denis Gwynn. Published by Burns Oates and Washbourne, Ltd.

A Celt when asked as to his opinion of Denis Gwynn as a writer replied that no Irishman respects his opinion on Irish affairs.

English Review (London) Monthly. Edited by Douglas Jerrold; Eyre and Spottiswoode, Ltd., Publ.

The Fortnightly (London) Monthly.

Nineteenth Century and After (London) Monthly

The Quarterly Review (London)

Queen's Quarterly (London) Queen's University, Kingston, Publ.

American Periodicals

A running story of Irish events is contained in numerous articles of The Commonweal: "A Weekly Review of Literature, The Arts, and Public Affairs." (New York) The Calvert Publ. Corp.

Many articles written in American periodicals were used in the preparation of the thesis. Those quoted are listed below.

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Campbell, Joseph, Editor of the Irish Review which survived only two issues. "A magazine of Irish expression." Celtic viewpoint. The Williams Press, Inc. New York.

"Correspondence between Mr. Lloyd George and Sir James Craig on the Position of Ulster," International Conciliation Vol. 11; pp. 155-April, 1922.

Gwynn Denis "The Challenge to De Valera", Current History Vol. XXXIX; pp. 315-32 December, 1933.

Gwynn, Stephen "Ireland Since the Treaty", Foreign Affairs Vol. XII, pp. 319-330, January, 1934.

Irish Free State (Agreement) Act. International Conciliation Publication Vol. 11; p. 185, April, 1922, Monthly: Published by the American Association for International Council, New York.

An Irish Observer, "The New Irish War", The Nation Vol. CXXXVII; pp. 39-41 January 10, 1934.

Hugh Kennedy, "Character and Sources of the Constitution of the Irish Free State". American Bar Association Journal Vol. XLV; pp. 437-45. 1928 Address delivered at the semi-Centennial meeting of the American Bar Association. Mr. Kennedy was law adviser to the Provisional Government and a member of the Constitutional Committee. He is at present the Chief Justice of the Superior Court of the Irish Free State.

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The thesis, "The Origin and Progress of the Movement toward Political Independence in Ireland since 1932," written by Rose Smith Kelly, has been approved by the Graduate School of Loyola University, with reference to form, and by the readers whose names appear below, with reference to content. It is, therefore, accepted as a partial fulfilment of the requirements for the degree of Master of Arts in Loyola University.

Rev. Jerome V. Jacobsen, S.J., Ph.D. November 7, 1935

Paul Kiniery, Ph.D.

January 22, 1936